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Vindiciæ contra Tyrannos:

A

Defence of Liberty against Tyrants.

OR,

Of the lawful power of the Prince over *the People, and of the People over the Prince.*

BEING

A Treatise written in *Latin* and *French* by *Junius Brutus*, and Translated out of both into ENGLISH.

Hubert Languet

Questions discussed in this Treatise.

I. Whether Subjects are bound and ought to obey Princes, if they command that which is against the Law of God.

II. Whether it be lawful to resist a Prince which doth infring the Law of God, or ruine the Church, by whom, how, and how far it is lawful.

III. Whether it be lawful to resist a Prince which doth oppress or ruine a publick State, and how far such resistance may be extended, by whom, how, and by what Right, or Law it is permitted.

IV. Whether neighbour Princes or States may be, or are bound by Law, to give succours to the Subjects of other Princes, afflicted for the Cause of true Religion, or oppressed by manifest Tyranny.

Licensed and Entered according to Order.

LONDON,
Printed for *Richard Baldwin*, in the Year, 1689.

THE

Emperors

THEODOSIAS *and* VALENTINIAN

TO

VOLUSIANUS, Great Provoſt of the Empire.

IT *is a Thing well becoming the* Majeſty *of an* Emperour, *to acknowledge Himſelf bound to obey the* Laws. *Our Authority depending on the Authority of the* Laws, *and in very Deed to ſubmit the Principallity to* Law, *is a greater thing then to bear Rule. We therefore make it known unto all Men, by the Declaration of this our Edict, that We do not allow Our ſelves, or repute it* Lawful, *to do any thing contrary to this.*

Juſtin *in the ſecond Book, ſpeaks thus of* Lycurgus, *Law-giver to the* Lacedemonians, *He gave* Laws *to the* Spartans *which had not any; and was as much renowned for his diligent* Obſerving *of them Himſelf, as for his diſcreet* Inventing *of them: For he made no* Laws *for Others, to the Obedience whereof he did not firſt ſubmit Himſelf. Faſhioning the People to obey willingly, and the Prince to Govern uprightly.*

The

The first Question.

Whether Subjects are bound and ought to obey Princes, if they command that which is against the Law of God.

THIS question happily may seem at the first view to be altogether superfluous and unprofitable, for that it seems to make a doubt of an axiome always held infallible amongst Christians, confirmed by many testimonies in Holy Scripture, divers examples of the Histories of all Ages, and by the death of all the Holy Martyrs, for it may be well demanded wherefore Christians have endured so many afflictions, but that they were always perswaded, that God must be obeyed simply, and absolutely, and Kings with this exception that they command not that which is repugnant to the Law of God. Otherways wherefore should the Apostles have answered, that God must rather be obeyed than men, and also seeing that the only will of God is always just, and that of men may be, and is, oftentimes unjust, who can doubt but that we must always obey God's commandments without any exception, and mens ever with limitation. But for so much as there are many Princes in these days, calling themselves Christians, which arrogantly assume an unlimited power, over which God himself hath no command, and that they have no want of flatterers, which adore them as Gods upon earth, many others also, which for fear, or by constraint, either seem, or else do believe, that Princes ought to be obeyed in all things, and by all men. And withal, seeing the unhappiness of these times is such, that there is nothing so firm, certain, or pure, which is not shaken, disgraced, or polluted; I fear me that whosoever shall nearly, and throughly consider these things, will confess this question to be not only most profitable, but also, the times considered, most necessary. For my own part when I consider the cause of the many calamities, wherewith Christendom hath been afflicted, for Act. 4. 19.

Hoſ. 5. 10. 11. these late years, I cannot but remember that of the Prophet *Hoſea*, *the Princes of Judah were like them that remove the bounds: wherefore I will powre out my ſelf like water. Ephraim is oppreſſed, and broken in judgment, becauſe he willingly walked after the Commandments.* Here you ſee the ſin of the Princes, and people diſperſed in theſe two words. The Princes exceed their bounds, not contenting themſelves with that Authority which the Almighty, and all good God hath given them, but ſeek to uſurp that ſovereignty, which he hath reſerved to himſelf over all men, being not content to command the Bodies, and goods of their Subjects at their pleaſure, but aſſume licence to themſelves to inforce the Conſciences, which appertains chiefly to Jeſus Chriſt, holding the earth not great enough for their ambition, they will climb and conquer Heaven it ſelf. The people on the other ſide walks after the commandment, when they yeild to the deſire of Princes, who command them that which is againſt the Law of God, and as it were burn incenſe to, and adore theſe earthy Gods; and inſtead of reſiſting them, if they have means and occaſion, ſuffer them to uſurp the place of God, making no conſcience to give that to *Cæſar*, which belongs properly and only to God. Now is there any man that ſees not this, if a man diſobey a Prince commanding that which is wicked and unlawful, he ſhall preſently be eſteemed a Rebel, a Traytor, and guilty of High Treaſon, our Saviour Chriſt, the Apoſtles and all the Chriſtians of the Primitive Church were charged with theſe Calumnies. If any after the example of *Ezra*, and *Nehemiah*, diſpoſe himſelf to the building of the Temple of the Lord, it will be ſaid he aſpires to the Crown, hatches innovations, and ſeeks the ruine of the State, then you ſhall preſently ſee a million of theſe Minnions, and flatterers of Princes tickling their ears with an opinion, that if they once ſuffer this Temple to be re-builded, they may bid their Kingdom farewel, and never look to raiſe impoſt or taxes on theſe men. But what a madneſs is this? There are no Eſtates which ought to be eſteemed firm and ſtable, but thoſe

Ezra. 4. Nehe. 5. 7.

in

in whom the Temple of God is built, and which are indeed the Temple it self, and these we may truly call Kings, which reign with God, seeing that it is by him only that Kings reign: On the contrary what beastly foolishness it is to think, that the State and Kingdom cannot subsist if God Almighty be not excluded, and his Temple demolished. From hence proceeds so many Tyrannous enterprises, unhappy and tragick death of Kings, and ruines of people. If these Sicophants knew what difference there is between *God* and *Cæsar*, between the King of Kings, and a simple King, between the Lord, and the Vassal, and what tributs this Lord requires of his Subjects, and what Authority he gives to Kings over those his Subjects, certainly so many Princes would not strive to trouble the Kingdom of God, and we should not see some of them precipitated from their Thrones by the just instigation of the Almighty, revenging himself of them, in the midst of their greatest strength, and the people should not be so sack't and pillag'd, and troden down.

It then belongs to Princes to know how far they may extend their Authority, and to Subjects in what they may obey them, lest the one incroaching on that jurisdiction, which no way belongs to them, and the others obeying him which commandeth further then he ought, they be both chastised, when they shall give an account thereof before another Judge: Now the end and scope of the question propounded, whereof the Holy Scripture shall principally give the resolution, is that which followeth. The question is, if Subjects be bound to obey Kings, in case they command that which is against the Law of God: that is to say, to which of the two (God or the King) must we rather obey, when the question shall be resolved concerning the King, to whom is attributed absolute power, that concerning other Magistrates shall be also determined.

First, the Holy Scripture doth teach, that God reigns by his own proper Authority, and Kings by derivation, God from himself, Kings from God, that God hath a jurisdiction proper, Kings are his delegates: It follows then,

Prov. 8. Job 12. Wisd. 6. 3.

then, that the jurisdiction of God hath no limits, that of Kings bounded, that the power of God is infinite, that of Kings confin'd, that the Kingdom of God extends it self to all places, that of Kings is restrain'd within the confines of certain Countries: In like manner God hath created of nothing both Heaven and Earth; wherefore by good right he is Lord, and true Proprietor, both of the one, and the other: All the Inhabitants of the Earth hold of him that which they have, and are but his tenants, and farmers; all the Princes and Governors of the World are his stipendaries and vassals, and are bound to take and acknowledge their investitures from him. Briefly, God alone is the owner and Lord, and all men of what degree, or quality soever they be, are his servants, farmers, officers and vassals, and owe account and acknowledgment to him, according to that which he hath committed to their dispensation, the higher their place is, the greater their account must be, and according to the ranks whereunto God hath raised them, must they make their reckoning before his divine Majesty, which the Holy Scripture teacheth in infinite places, and all the faithful, yea, and the wisest among the Heathen have ever acknowledged: The earth is the
Psal. 14. Lords, and the fulness thereof, (so saith King *David*) And to the end that men should not Sacrifice to their own industry; the Earth yeilds no increase without the dew of Heaven: Wherefore God commanded that his people should offer unto him the first of their fruits, and the Heathens themselves hath consecrated the same unto their Gods; to the end, that God might be acknow-
Isay. 66. 1. ledged Lord, and they his grangers and vine dressers;
1 Kings 1. 8. the Heaven is the Throne of the Lord, and the Earth his Foot-stool. And therefore seeing all the Kings of the World are under his Feet; it is no marvail, if God be called the King of Kings, and Lord of Lords; all Kings be termed his
Prov. 8. 15. Ministers established to judge rightly, and govern justly
Job 12. 18. the World in the quality of Livetenants. By me (so saith the divine Wisdom) Kings reign, and the Princes
Dan. 2. 21. judge the earth: If they do it not he looseth the Bonds of Kings, and grideth their Loyns with a girdle. As if he

he should say, it is in my power to establish Kings in their Thrones, or to thrust them out, and from that occasion the Throne of Kings is called the Throne of God. Blessed be the Lord thy God (saith the Queen of *Sheba* to King *Solomon)* which delighted in thee to set thee on his Throne to be King for the Lord thy God, to do judgment and justice. In like manner we read in another place, that *Solomon* sate on the Throne of the Lord, or on the Throne of the Lords Kingdom. By the same reason the People is always called the Lords People, and the Lords inheritance, and the Kings Governor of this inheritance, and Conductor or Leader of his People of God, which is the title given to *David*, to *Solomon*, to *Ezechias* and to other good Princes; when also the Covenant is passed betwixt God and the King, it is upon condition that the People be, and remain always the people of God, to shew that God will not in any case despoil himself of his propriety and possession, when he gives to Kings the government of the People, but establish them to take charge of, and well use them, no more nor less then he which makes choise of a Shepheard to look to his flocks, remains notwithstanding himself still Master and owner of them. This was always known to those good Kings, *David*, *Solomon*, *Jehosaphat*, and others which acknowledged God to be the Lord of their Kingdoms and Nations, and yet lost no priviledge that justly belongs to real power; yea, they reigned much more happily in that they employed themselves chearfully in the service of God, and in obedience to his Commandments. *Nebuchadnezar*, although he were a Heathen, and a mighty Emperor, did yet at the end acknowledge this, for though *Daniel* called him the King of Kings, to whom the King of Heaven had granted power and Royal Majesty above all others: Yet on the contrary, (said he) *Thy God O Daniel is truly the God of Gods, and Lord of Lords giving Kingdoms to whom he pleaseth*, yea, to the most wretched of the World. For which cause *Zenephon* said at the Coronation of *Cyrus*; let us sacrifice to God. And prophane Writers in many places do magnifie

2 Chron. 9. 8.

2 Chron. 29. 13.
1 Sam. 9. 16. and 10. 1.

2 Sam. 6. 21.
2 Kings 20. 5.
2 Chron. 1. 9.
2 King. 11.
2 Chron. 33. 16.

2 Chron. 20. 6.

Dan. 2. 37. and 4. 14.

magnifie God the most mighty and Sovereign King: At this day at the Inaugurating of Kings, and Christian Princes, they are called the servants of God, destinated to govern his people. Seeing then that Kings are only the Leiutenants of God, established in the Throne of God, by the Lord God himself, and the people are the people of God, and that the honour which is done to these Leiutenants proceeds from the reverence which is born to those, that sent them to this service: it follows of necessity that Kings must be obeyed for Gods cause, and not against God, and then, when they serve and obey God, and not other ways. It may be that the flatterers of the Court will reply, that God hath resigned his power unto Kings, reserving Heaven for himself, and allowing the Earth to them to Reign, and govern there according to their own fancies; briefly that the great ones of the World hold a devided Empire with God himself. Behold a discourse proper enough for that impudent Villain *Cleon* the Sicophant of *Alexander*, or for the Poet *Martial* which was not ashamed to call the Edicts of *Domitian*, the Ordinances of the Lord God. This discourse I say is worthy of that execrable *Domitian* who (as *Suetonius* recites) would be called God and Lord: But altogether unworthy of the ears of a Christian Prince, and of the mouth of good Subjects, that sentence of God Almighty must always remain irrevocably true, *I will not give my glory to any other*, that is, no Man shall have such absolute Authority, but I will always remain Sovereign. God doth not at any time divest himself of his power, he holds a Scepter in one hand to repress and quell the audatious boldness of those Princes which mutiny against him, and in the other a ballance to controul those that administer not justice with equity as they ought, then these there cannot be expressed more certain marks of sovereign Command. And if the Emperor in creating a King, reserves always to himself the imperial soveraignty, or a King as he of *France* in granting the Government or possession of a Province to a stranger, or if

Divisum imperium cum Jove Cæsar habet.

Isa. 48. 11.

Psal. 2. 9.
Wisd. 6. 4.

if it be to his Brother or Son reſerves always to himſelf appeals, and the knowledg of ſuch things as are the marks of royalty and ſovereignty, the which alſo are always underſtood of themſelves to be excepted, although they were altogether omitted in the grant of inveſtiture, and fealty promiſed, with much more reaſon ſhould God have Sovereign Power and Command over all Kings being his Servants and Officers, ſeeing we read, in ſo many places of Scripture, that he will call them to an account, and puniſh them, if they do not faithfully diſcharge their duties. Then therefore all Kings are the Vaſſals of the King of Kings, inveſted into their Office by the ſword, which is the cogniſance of their Royal Authority, to the end, that with the ſword they maintain the Law of God, defend the good, and puniſh the evil: Even as we commonly ſee, that he which is a Sovereign Lord, puts his Vaſſals into poſſeſſion of their fee, by girding them with a ſword, delivering them a buckler, and a ſtandard, with condition that they ſhall fight for them with thoſe Arms if occaſion ſhall ſerve. Now if we conſider what is the duty of Vaſſals, we ſhall find that what may be ſaid of them, agrees properly to Kings. The Vaſſal receives his fee of his Lord with right of juſtice, and charge to ſerve him in his Wars. The King is eſtabliſhed by the Lord God, the King of Kings; to the end he ſhould adminiſter juſtice to his people and defend them againſt all their Enemies. The Vaſſal receives Laws and Conditions from his Sovereign: God Commands the King to obſerve his Laws and to have them always before his Eyes, promiſing that he and his Succeſſors ſhall poſſeſs long the Kingdom, if they be obedient, and on the contrary, that their Reign ſhall be of ſmall continuance, if they prove Rebellious to their Sovereign King. The Vaſſal obligeth himſelf by Oath unto his Lord, and ſwears that he will be faithful, and obedient: In like manner the King promiſeth ſolemnly to command, according to the expreſs Law of God. Briefly the Vaſſal looſeth his fee, if he Commit

1 Sam. 8. and 9 20.

Deu. 17. 19.

mit Fellony, and by Law forfeiteth all his Priviledges. In the like caſe the King looſeth his Right, and many times his Realm alſo, if he deſpiſe God, if he Complot with his Enemies, and if he Commit Fellony againſt that Royal Majeſty, this will appear more clearly by the conſideration of the Covenant which is Contracted between God and the King, for God does that honour to his Servants to call them his Confederates. Now we read of two ſorts of Covenants at the Inaugurating of Kings, the firſt between God, the King, and the People, that the people might be the people of God: The ſecond between the King and the people, that the people ſhall obey faithfully, and the King command juſtly, we will treat hereafter of the ſecond, and now ſpeak of the firſt.

The Alliance between God and the Kings. 2 King. 11. 2 Chro. 23.16. 2 King 23.

When King *Joas* was Crowned we read that a Covenant was Contracted between God, the King, and the People: or, as it is ſaid in another place between *Jehojada* the High-Prieſt, all the People, and the King, *That God ſhould be their Lord.* In like manner we read that *Joſias* and all the people entred into Covenants with the Lord: we may gather from theſe teſtimonies, that in paſſing theſe Covenants the High-Prieſt did Covenant in the Name of God in expreſs terms, that the King and the People ſhould take order that God might be ſerved purely, and according to his will, throughout the whole Kingdom of *Juda*, that the King ſhould ſo Reign that the People were ſuffered to ſerve God, and held in obedience to his Law: That the people ſhould ſo obey the King, as their obedience ſhould have principal Relation to God. It appears by this that the King and the People are joyntly bound by promiſe and did oblige themſelves by ſolemn Oath to ſerve God before all things. And indeed preſently after they had ſworn the Covenant, *Joſias* and *Joas* did ruine the Idolatry of *Baal* and re-eſtaliſhed the pure ſervice of God. The principal points of the Covenants were chiefly theſe.

That

That the King himſelf, and all the people ſhould be careful to honour and ſerve God according to his will revealed in his word, which if they performed, God would aſſiſt and preſerve their Eſtates: as in doing the contrary, he would abandon, and exterminate them, which doth plainly appear by the conferring of divers paſſages of holy writ. *Moſes* ſomewhat before his death propounds theſe conditions of Covenant to all the people, and at the ſame time commands that the Law, which be thoſe precepts given by the Lord ſhould be in *depoſito* kept in the Ark of the Covenant. Deut. 29. 30, 31. Deut. 31. 26.

After the deceaſe of *Moſes*, *Joſhua* was eſtabliſhed Captain, and Conductor of the people of God, and according as the Lord himſelf admoniſhed, if he would have happy ſucceſs in his Affairs, he ſhould not in any ſort eſtrange himſelf from the Law; *Joſhua* alſo for his part, deſiring to make the *Iſraelites* underſtand upon what condition God had given them the Country of *Canaan*, as ſoon as they were entred into it, after due ſacrifices performed, he read the Law in the preſence of all the people, promiſing unto them in the Lords name all good things if they perſiſted in obedience; and threatning of all evil if they wilfully connived in diſobedience. Summarily, he aſſures them all proſperity, if they obſerved the Law; as otherways, he expreſly declared, that in doing the contrary they ſhould be utterly ruined: Alſo at all ſuch times as they left the ſervice of God, they were delivered into the hands of the *Canaanites*, and reduced into ſlavery, under their Tyranny. Now this Covenant between God and the people in the times of the Judges, had vigor alſo in the times of the Kings, and was treated with them. After that *Saul* had been anoynted, choſen, and wholly eſtabliſhed King, *Samuel* ſpeaks unto the people in theſe terms; *Behold the King whom you have demanded and choſen, God hath eſtabliſhed him King over you, obey you therefore and ſerve the Lord, as well you, as your King which is eſtabliſhed over you, otherwiſe you and your King ſhall periſh.* As if he ſhould ſay, you would have a King and God hath given you this here, notwithſtanding Deut. 27. 25. Joſ. 5. & 24. Joſh. 1. 2 Sam. 12.

think not that God will suffer any entroachment upon his right, but know that the King is as well bound to observe the Law as you, and if he fail therein, his delinquency shall be punished as severely as yours: Briefly, according to your desires *Saul* is given you for your King, to lead you in the Wars, but with this condition annexed that he himself follow the Law of God. After that *Saul* was rejected, because he kept not his promise, *David* was established King on the same condition, so also was his Son *Solomon*, for the Lord said, *If thou keep my Law, I will confirm with thee the Covenant which I contracted with David.* Now concerning this Covenant, it is inserted into the second Book of the Chronicles, as followeth. *There shall not fail thee a man in my sight, to sit upon the Throne of Israel: yet so that thy children take heed to their way to walk in my Law, as thou hast walked before me, But if they serve Idols, I will drive them from the Land whereof I have given them possession.* And therefore it was that the book of the Law was called the book of the Covenant of the Lord, (who commanded the Priests to give it the King) according to which *Samuel* put it into the hands of *Saul*, and according to the tenure thereof *Josias* yields himself *fœdetarie* and vassal of the Lord. Also the Law which is kept in the Ark, is called the Covenant of the Lord with the Children of *Israel.* Finally, the people delivered from the Captivity of *Babylon*, do renew the Covenant with God, and do acknowledge throughout that Chapter, that they worthily deserved all those punishments for their falsifying their promise to God. It appears then that the Kings swear as vassals to observe the Law of God, whom they confess to be Sovereign Lord over all. Now according to that which we have already touched, if they violate their Oath, and transgress the Law, we say that they have lost their Kingdom, as vassals loose their fee by Committing Fellony. We have said that there was the same covenant between God and the Kings of *Judah*, as before, between God and the People in the times of *Joshua* and the Judges. But we see in many places, that when the people

2 King. 2. 4. & 6. 12.

2 Chron. 6. 16 & 7. 17. 2 King. 33. 2. Deut. 17. 18. 1 Sam. 10. 25.

2 Chron. 6. 11. Nehem. 9. 38.

Jud. 2. 24. & 4. 2. &c. & 9. 33. 1 Sam. 13. 13. & 15. 26.

people hath despised the Law, or made covenants with *Baal*, God hath delivered them into the hands of *Eglon*, *Jabin*, and other Kings of the *Canaanites*: And as it is one and the same Covenant, so those which do break it, receive like punishment *Saul* is so audacious to sacrifice, infringing thereby the Law of God, and presently after saves the life of *Agag*, King of the *Amalekites*, against the express Commandment of God, for this occasion he is called Rebel by *Samuel*, and finally is chastized for his Rebellion. *Thou hast sacrificed*, saith he, *but thou hadst done better to obey God, for, obedience is more worthy than sacrifice*. Thou hast neglected the Lord thy God, he also hath rejected thee, that thou Reign no more over *Israel*. This hath been so certainly observed by the Lord, that the very Children of *Saul* were deprived of their paternal inheritance, for that he having committed High Treason, did thereby incur the punishment of Tirants, which affect a Kingdom that no way appertains unto them. And not only the Kings, but also their Children and successors have been deprived of the Kingdom by reason of such Fellony. *Solomon* revolted from God to Worship Idols. Incontinently the Prophet *Ahijah* foretels that the Kingdom shall be divided under his Son *Rehoboam*. Finally, the word of the Lord is accomplished, and ten Tribes which made the greatest portion of the Kingdom, do quit *Rehoboam*, and adhere to *Jeroboam* his Servant. Wherefore is this? for so much (saith the Lord) that they have left me to go after *Astaroche*, the God of the *Sidonians* and *Chamos* the God of the *Moabites*, *&c.* I will also break in pieces their Kingdom: as if he should say, they have violated the Covenant, and have not kept promise, I am no more then tied unto them, they will lessen my Majesty, and I will lessen their Kingdom: Although they be my Servants, yet notwithstanding they will expel me my Kingdom; but I will drive them out themselves by *Jeroboam* which is their Servant. Furthermore, for so much as this Servant, fearing that the ten Tribes for the cause of Religion should return to *Jeru-*

salem, set up Calves in *Bethel*, and made *Israel* to sin, withdrawing by this means the people far from God, what was the punishment of so ingrateful a Vassal and wicked Traytor towards his Lord? First, his Son died, and in the end all his race, even unto the last of the males was taken from the Face of the Earth by the Sword of *Baasa*, according to the Judgment which was pronounced against him by the Prophet, because he revolted from the obedience of the Lord God: this then is cause sufficient, and often times also propounded, for the which God doth take from the King his Fee, when he oppoleth the Law of God, and withdraws himself from him to follow his Enemies, to wit Idols, and as like crimes deserve like punishments, we read in the Holy Histories that Kings of *Israel* and of *Juda* which have so far forgotten themselves, have in the end miserably perished. Now although the form both of the Church, and the *Jewish* Kingdom be changed, for that which was before inclosed within the narrow bounds of *Judea*, is now dilated throughout the whole World, notwithstanding the same things may be said of Christian Kings, the Gospel having succeeded the Law, and Christian Princes being in the place of those of *Jury*: There is the same Covenant, the same Conditions, the same Punishments, and if they fail in the accomplishing, the same God Almighty revenger of all perfidious disloyalty; and as the former were bound to keep the Law, so the other are obliged to adhere to the Doctrin of the Gospel, for the advancement whereof these Kings at their anoynting, and receiving, do promise to imploy the utmost of their means.

Herod fearing Christ, whose reign he should rather have desired, sought to put him to death, as if he had affected a Kingdom in this World, did himself miserably perish, and lost his Kingdom. *Julian* the Apostate did cast off Christ Jesus to cleave unto the Impiety and Idolatry of the *Pagans*: but within a small time after he fell to his confusion; the force of the Arm of Christ, whom in mockery he called the *Gallilean*.

Gallilean. Antient Hiſtories are repleat with ſuch examples, neither is there any want in thoſe of theſe times. Of late years divers Kings drunk with the liquor which the Whore of *Babilon* hath preſented unto them, have taken Arms, and for the love of the Wolf, and of Antichriſt, have made War againſt the Lamb of God, which is Chriſt Jeſus, and yet at this day ſome amongſt them do continue in the ſame courſe, we have ſeen ſome of them ruin'd in the deed, and in the midſt of their wickedneſs, others alſo carried from their Triumphs to their graves, thoſe which ſurvive and follow them in their courſes have little reaſon to expect a better iſſue of their wicked practices, this ſentence remains always moſt certain, *That though all the Kings of the Earth do conjure and conſpire againſt Chriſt and indeavour to cut in pieces our Lamb, yet in the end they ſhall yeild the place, and maugre their hearts, confeſs that this Lamb is the King of Kings, and Lord of Lords.* But what ſhall we ſay of the Heathen Kings? Certainly although they be not anointed and ſacred of God, yet be they his Vaſſals and have received their power from him, whether they be choſen by lot or any other means whatſoever. If they have been choſen by the voices of an Aſſembly, we ſay that God governs the heart of man, and addreſſes the minds and intentions of all perſons whether he pleaſeth: If it be by lot, the lot is caſt in the lap, ſaith the wiſe man, *but the whole diſpoſing thereof is of the Lord.* It is God only that in all ages eſtabliſheth, and takes away, confirms, and overthrows Kings according to his good pleaſure; In which regard *Iſay* calls *Cyrus* the anointed of the Lord, and *Daniel* ſaith that *Nebuchadnezar* and others have had their Kingdoms committed unto them by God; as alſo Saint *Paul* maintains that all Magiſtrates have received their Authority from him: For although that God hath not commanded *Pagans* in expreſs terms to obey him as he hath done thoſe that have knowledge of him: yet notwithſtanding the *Pagans* muſt needs confeſs that it is by the ſovereign God that they reign, wherefore if they will not yeild the

pſal. 2. 2. pſal. 110. 2. Apoc. 19. 16.

pro. 16. 33.

Eſa. 45. 1. Dan. 2. 21. and 4. 24. Rom, 13. 1.

the tribute that they owe to God in regard of themselves, at the least let them not attempt nor hinder the Sovereign to gather that which is due from those people which are in subjection to them; nor that they do not anticipate, nor appropriate to themselves divine Jurisdiction over them, which is the crime of High Treason and true Tyranny, for which occasion the Lord hath grievously punished even the *Pagan* Kings themselves. It then becomes those Princes that will free themselves from so enormous a mischief, carefully to distinguish their jurisdiction from that of Gods, yea, so much the more circumspectly for that God and the Prince have their right of Authority over one and the same Land, over one and the same man, over one and the same thing; man is composed of Body and Soul, God hath formed the Body and infused the Soul into him, to him only then may be attributed, and appropriated the commands both over the Body and Soul of man. If out of his meer grace and favour he hath permitted Kings to employ both the Bodies and goods of their Subjects, yet still with this proviso and charge, that they perserve and defend their Subjects; certainly Kings ought to think that the use of this Authority is in such manner permitted, that notwithstanding the abuse of it is absolutely forbidden: First, those which confess that they hold their Souls and lives of God, as they ought to acknowledge, they have then no right to impose any tribute upon Souls. The King takes tribute and custom of the Body, and of such things as are acquired or gained by the industry and Travel of the Body, God doth principally exact his right from the Soul, which also in part executes her functions by the Body. In the tribute of the King are comprehended the Fruits of the Earth, the contributions of money and other charges, both real and personal; the tribute of God is in Prayers, Sacraments, Predications of the pure word of God; briefly all that which is called divine service, as well private as publick; these two tributes are in such manner divers and distinguished, that the one hurts nothing the other,

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the Exchequer of God takes nothing from that of *Cæsar*, but each of them have their right manifestly a part. But to speak in a word, whosoever confounds these things, doth Heaven and Earth together, and endeavours to reduce them into their first chaos, or latter confusion. *David* hath excellently well distinguished these affairs, ordaining Officers to look to the right of God, and others for that of the King. *Josephat* hath followed the same course, establishing certain persons to judg the causes that belonged to the Almighty, and others to look to the justice of the King; the one to maintain the pure service of God, the other to preserve the rights of the King. But if a Prince usurpe the right of God, and put himself forward after the manner of the Giants to scale the Heavens, he is no less guilty of High Treason to his Sovereign, and commits Felony in the same manner, as if one of his vassals should seize on the rights of his Crown, and puts himself into evident danger to be dispoiled of his Estates, and that so much the more justly, there being no proportion between God and an earthly King, between the Almighty and a mortal man; whereas yet between the Lord and the Vassel there is some relation of proportion. So often therefore as any Prince shall so much forget himself, as insolently to say in his heart I will ascend into Heaven, I will exalt my Throne above the Stars of God: I will sit also upon the mount of the congregation in the sides of the North; I will ascend above the heights of the Clouds, I will be like the most high. But on the contrary, will the Almighty say I will rise up more high, I will set my self against thee; I will raze out thy name and all thy posterity, thy counsels shall vanish into smoak, but that which I have once determined shall remain firm, and never be annihilated. The Lord said unto *Pharaoh*, *let my people go, that they may serve me, and offer sacrifice unto me*, and for that this proud man answered, that he knew not the God of the *Hebrews*, presently after he was miserably destroyed. *Nebuchadnezar* commanded that his statue should be adored, and would be honoured as God, but

1 Chron. 26. 29. 2 Chron. 19. 11.

Esay. 14. 13. 14.

Exo. 5. and 8. &c.

Dan. 3. 5. and 4. 25. &c.

but within a short time the true God did deservedly chastise his unruly boldness, and desiring to be accounted God, he became a brute beast, wandring through de-
Dan. 5. 2. sart places like a wild Ass, until (saith the Prophet) that he acknowledged the God of *Israel* to be the Soveraign Lord over all, his Son *Belshaser* abused the holy vessels of the Temple in *Jerusalem*, and put them to serve his excess and drunkenness; for that therefore he gave not glory to him, that held in his hands both his Soul and his counsels, he lost his Kingdom, and was slain in that very night of his feasting. *Alexander* the Great, took pleasure in the lies of his Flatterers, who termed him the Son of *Jupiter*, and not only approv'd, but procur'd his adoration, but a sudden death gave a sad Period to those
1 Macha. 1. triumphs, being blinded through his excess of conquests
45. began with too much affection, to delight in *Antiochus*, under colour of pacifying and uniting his subjects, commanded all men to forsake the Laws of God, and to apply themselves in obedience to his; he prophaned the Temple of the *Jews*, and polluted their Altars, but after divers ruins, defeats and loss of battles, dispoyled and dis-
Mac. 6.12,13. graced, he dyes with grief, confessing that he deservedly suffered those miseries, because he would have constrained the *Jews* to leave their Religion. If we take into our consideration the death of *Nero*, that inhuman Butcherer of Christians, whom he unjustly slandered with the firing of *Rome*, being the abhorred Act of his detested self: The end of *Caligula*, which made himself to be adored, of *Domitian* which would be called Lord and God, of *Commodus*, and divers others which would appropriate to themselves the honours due to *God* alone, we shall find that they have all and always according to their deceits miserably perished; when on the contrary, *Trajan*, *Adrian*, *Antonius* the courteous and others, have finished their days in peace; for although they knew not the true *God*, yet have they permitted the Christians the exercise of their *Religion*. Briefly even as those rebellious Vassals which endeavour to possess themselves of the Kingdom, do commit Felony by the Testimony of

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all Laws, and deserve to be extirpated; in like manner those are as really guilty which will not observe the Divine Law, whereunto all men without exception owe their obedience, or which persecute those that desire to conform themselves thereunto, without, hearing them in their *just defences*; now for that we see that God invests Kings into their Kingdoms, almost in the same manner that vassals are invested into their fees by their Soveraign, we must needs conclude, that Kings are the vassals of God, and deserve to be deprived of the benefit they receive from their Lord if they commit Felony, in the same fashion as rebellious vassals are of their Estates. These premises being allowed, this question may be easily resolved; for if God hold the place of Soveraign Lord, and the King as Vassal: who dare deny but that we must rather obey the Soveraign than the Vassal? If God commands one thing, and the King commands the contrary, what is that proud man that would term him a Rebel which refuseth to obey the King, when else he must disobey God. But on the contrary he should rather be condemned, and held for truly rebellious, which omits to obey God, or which will obey the King, when he forbids him to yeild Obedience to God. Briefly, if God calls us on the one side to enrole us in his Service, and the King on the other, is any man so void of reason as he will not say we must leave the King, and apply our selves to Gods Service: so far be it from us to believe, that we are bound to obey a King, commanding any thing contrary to the Law of God, that contrarily in obeying him we become Rebels to God; no more, nor less than we would esteem a Countrey-man a Rebel, which for the Love he bears to some rich and antient inferiour Lord, would bear Arms against the Soveraign Prince, or which had rather obey the Writs of an Inferior Judg than of a Superior, the Commandments of a Lieutenant of a Province, than of a Prince; to be brief, the Directions of an Officer rather than the expres Ordinances of the King himself. In doing this we justly incur the malediction of the Prophet *Micha*, which doth detest and curse in the name of God all those Mich. 6. 16.

which obey the wicked and perverſe Ordinances of Kings. By the Law of God we underſtand the two Tables given to *Moſes*, in the which, as in unremoveable bounds the authority of all Princes ought to be fixed. The firſt comprehends that which we owe to God, the ſecond that which we muſt do to our Neighbours; briefly, they contain Piety and Juſtice conjoyned with Charity, from which the Preaching of the Goſpel doth not derogate, but rather authorize and confirm: The firſt Table is eſteemed the Principal, as well in order as in dignity. If the Prince commands to cut the throat of an innocent, to pillage and commit extortion, there is no man (provided he have ſome feeling of Conſcience) that would execute ſuch a Commandment. If the Prince have committed ſome Crime, as Adultery, Parracide, or ſome other wickedneſs, behold amongſt the Heathen, the learned *Lawyer Papinian* which will reprove *Caracalla* to his face, and had rather dye than obey, when his cruel Prince commands him to lie and palliate his Offence; nay, although he threaten him with a terrible death, yet would he not bear falſe witneſs; what ſhall we then do, if the Prince command us to be *Idolaters*, if he would have us again crucifie Chriſt Jeſus, if he enjoyns to blaſpheme and deſpite God, and to drive him (if it were poſſible) out of Heaven, is there not yet more reaſon to diſobey him, than to yield obedience to ſuch extravagant commands: Yet a little farther, ſeeing it is not ſufficient to abſtain from evil, but that we muſt do good, inſtead of worſhipping of Idols, we muſt adore and ſerve the true God, according as he hath commanded us, and inſtead of bending our knees before *Baal*, we muſt render to the Lord the honour and ſervice which he requires of us: For we are bound to ſerve God for his own ſake only; but we honour our Prince, and love our Neighbour, becauſe and for the Love of God. Now if it be ill done to offend our Neighbour, and if it be a capital Crime to riſe againſt our Prince, how ſhall we intitle thoſe that riſe in rebellion againſt the Majeſty of the Soveraign Lord of all Mankind; briefly, as it is a thing much more

more grievous to offend the Creator, than the creature, Man, than the Image he represents; and as in Terms of Law, he that hath wounded the proper Person of a King, is much more culpable, than another that hath only broken the Statue erected in his Memory; so there is no question, but a much more terrible punishment is prepared for them, which infring the first Table of the Law, than for those which only sin against the second, although the one depend of the other; whereupon it follows (to speak by comparison) that we must take more careful regard to the Observation of the first than of the second. Furthermore, our Progenitors Examples may teach us the Rule we must follow in this Case. King *Ahab* at the Instigation of his Wife *Jesabel*, killed all the Prophets and Servants of God that could be taken, notwithstanding *Abdias* Steward of *Ahab*'s House did both hide and feed in a Cave a hundred Prophets, the excuse for this is soon ready; in obligations, oblige they never so nearly, the Divine Majesty must always be excepted. The same *Ahab* enjoyned all Men to sacrifice to *Baal*. *Elias* instead of cooling or relenting did reprove more freely the King, and all the People, convinced the Priests of *Baal* of their Impiety, and caused them to be executed. Then in despite of that wicked and furious *Jesabel*, and maugre that uxorious King, he doth redress and reform with a Divine and Powerful Endeavour the Service of the true God. When *Ahab* reproached him (as the Princes of our times do) that he troubled *Israel*, that he was rebellious, seditious, Titles wherewith they are ordinarily charged, which are no way culpable thereof; nay, but it is thou thy self, answered *Elias*, which by thy Apostasie hath troubled *Israel*, which hath left the Lord the true God, to acquaint thy self with strange Gods his Enemies, in the same manner and by the leading and direction of the same spirit did *Sidrac Misack*, and *Abednego* refuse to obey *Nebuchadnezar*, *Daniel Darius*, *Eleazar Antiochus*, and infinit others. After the coming of Jesus Christ, it being forbidden the Apostles to preach the Gospel. Judge ye, (said they) whether it be reasonable

1 King. 18. 4.

1 King. 18. 17.

Dan. 3. 18. and 6. 10. 13. Act. 4. 19. *Philo Judeus* in his discourse of his Embassage to *Cyrus*. S. *Ambros.* in the Epist. 33

reasonable as in the sight of God to obey men, rather then God; according to this the Apostles, not regarding neither the intendments nor designs of the greatness of the World, adressed themselves readily to do that which their Master Jesus Christ had commanded them. The *Jews* themselves would not permit that there should be set up in the Temple at *Jerusalem* the Eagle of Silver, nor the statue of *Caligula*: what did *Ambrose* when the Emperour *Valentinian* commanded him to give the Temple at *Millan* to the *Arrians*? *Thy Counsellors and Captains are come unto me*, said he, *to make me speedily deliver the Temple, saying it was done by the Authority and command of the Emperor, and that all things are in his power.* I answered to it, *That if he demanded that which is mine, to wit, mine inheritance, my Money, I would not in any sort refuse it him, although all my goods belong properly to the poor, but the things divine are not in subjection to the power of the Emperor.* What do we think that this Holy Man would have answered, if he had been demanded whether the living Temple of the Lord should be enthrawled to the slavery of Idols. These Examples, and the constancy of a Million of Martyrs, which were Glorious in their deaths, for not yeilding obedience in this kind, according as the Ecclesiastical Histories, which are full of them, do demonstrate, may sufficiently serve for an expres Law in this case. But for all this we have no want of a Law formerly written: For as often, and ever as the Apostles admonish Christians to obey Kings and Magistrates, they do first exhort, and as it were by way of advice, admonish every one to subject himself in like manner to God, and to obey him before and against any whatsoever, and there is no where to be found, in any of their writings, the least passage for this unlimitted obedience, which the flatterers of *Princes* do exact from men of small understandings. *Let every soul*, saith Saint *Paul*, *be subject to the higher powers, for there is no power but of God:* he makes mention of every Soul, to the end it may not be thought, that he would exempt any

Rom. 13. 1.

from

from this subjection; we may easily gather by divers such Speeches, that we must obey God rather than the King: For if we obey the King, because, and for the love of God certainly this obedience may not be a conspiracy against God: But the Apostle will stop the gap to all ambiguity in adding that the Prince is the Servant of God for our good, to wit, to do justice; from this necessarily follows that which we come from touching, that we must rather obey God then him who is his Servant: This doth not yet content Saint *Paul* for he adds in the end, *Give tribute, honour, and fear to whom they appertain,* as if he should say, that which was alledged by Christ, *Give to Cæsar that which is Cæsars, and to God that which is Gods*: To *Cæsar* tribute, and honour; to *God* fear. Saint *Peter* saith the same, *fear God, honour the King*; *Sevants obey your Masters not only the good and kind, but also the rigorous*, we must practice these precepts according to the order they are set down in: to wit, that as servants are not bound to obey their Masters if they command any thing which is against the Laws and ordinances of Kings: Subjects in like manner owe no obedience to Kings which will make them to violate the Law of God. Math. 22. 21 1 pet. 2. 17. 18.

Certain lewd companions object, *that even in the things themselves that concern the Conscience we must obey Kings, and are so shameless as to produce for witness of so wicked an opinion the Apostle Saint* Peter *and Saint* Paul, *concluding from hence, that we must yeild obedience to all that the King shall ordain, though it be to imbrace, without reply, any Superstition he shall please to establish.* But there is no man so grosly void of Sense, that sees not the impiety of these men, we reply: that Saint *Paul* saith in expres terms, we must be subject to Princes, not only for wrath, but also for conscience sake. In opposing conscience to wrath, it is as much as if the Apostle had said, that the obedience of which he speaks ought not to proceed for fear of punishment, but from the love of God, and from the reverence which we are bound to bear unto the word, in the same Sence Saint 1. Object. Rom. 1. 35.

St. *Paul* enjoyneth Servants in such manner to obey their Masters, that it be not with eye service for fear of
Col. 3. 22. stripes, but in singleness of Heart, fearing God, not simply, to acquire the favour of men, whom they may delude, but to bear the burden laid on their Shoulders, by him whom no man can deceive.

In brief there is manifest difference between these two manners of Speech, to obey for Conscience sake, and to obey in those things which concern the Conscience: otherways those which had much rather loose their Lives with infinite Torments then obey Princes which command them things contrary to the will of God, would have taught us that which these seek to
2 Object. perswade us to. Neither do they express themselves less impudent in that which they are accustomed to object to those which are not so well able to answer them. That Obedience is better than Sacrifice, for there is no Text in Holy Writ that doth more evidently confound them then this, which is contained in *Samuels*
1 Sam. 15. 22. reprehension of King *Saul*, for his Disobedience to the Commandment of God, in Sacrificing unfittingly. If then *Saul* although he were a King ought to obey God, it follows in all good consequence that Subjects are not bound to obey their King by offending of God. Briefly, those (which after the barbarous manner of the Men of *Calcut*) seek to inthral the Service of God with a necessary dependance on the will of a mutable Man, and Religion of the good pleasure of the King, as if he were some God on Earth, they doubtless little value the Testimony of Holy Writ. But let them (at the
Cicero in the first book of offic. least) yet learn of a Heathen Orator. *That in every publick State, there is certain degrees of Duty, for those that converse and live in it, by which may appear wherein the one are obliged to the other. Insomuch that the first part of this Duty belongs to the immortal God, the second Concerns the Country, which is their common Mother, the third, those which are of our Blood, the other parts leading us step by step to our other Neighbours. Now al-*
l. 2. ad leg. Jul. majest. Digest. *though the Crime of High Treason be very heinous, yet ac-*

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cording to the Civilians, it always follows after Sacriledge, an Offence which properly pertains to the Lord God and his Service, insomuch that they do confidently affirm, that the robbing of a Church, is by their rules esteemed, a greater Crime, than to Conspire against the Life of a Prince. Thus much for this first Question, wherein we perswade our selves, that any Man may receive satisfaction, if he be not utterly void of the fear of God.

The Second Question.

Whether it be lawful to resist a Prince which doth infring the Law of God, or ruine his Church, by whom, how and how far it is lawful?

THis Question seems at the first view to be of a high and difficult Nature, for so much as there being small occasion to speak to Princes that fear God: On the contrary, there will be much danger to trouble the ears of those which ackdowledge no other Sovereign but themselves, for which reason few or none have medled with it, and if any have at all touched it, it hath been but as it were in passing by. The Question is, *If it be lawful to resist a Prince violating the Law of God, or ruinating the Church, or hindring the restoring of it?* If we hold our selves to the Tenure of the Holy Scripture it will resolve us. For, if in this case it have been lawful to the *Jewish* People (the which may be easily gathered from the Books of the Old Testament) yea, if it have been injoyned them, I believe it will not be denyed, that the same must be allowed to the whole people of any Christian Kingdom or Country whatsoever. In the first place it must be considered, that God having chosen *Israel* from amongst all the Nations of the Earth, to be a peculiar People to him, and covenanted with them, that they should be the people of God. This is written in divers places of *Deuteronomy*: the substance and tenor of this alliance was, *That all should be careful in their several lines, tribes, and families in the* Deut. 7. 6. and 14. 2.

the Land of Canaan, to serve God purely, who would have a Church established amongst them for ever, which may be drawn from the testimony of divers places, namely that which is contained in the 27 Chap. of *Deuteronomy*, there *Moses* and the *Levites* covenanting as in the name of God, assembled all the people, and said unto them: *This day, Oh Israel art thou become the people of God, obey you therefore his voice &c. And Moses said, when thou hast passed the River of Jordan, thou shalt set six* Tribes *on the mountain of* Gerizzim *on the one side, and the six other on the Mountain of* Eball, *and then the* Levites *shall read the Law of God, promising the Observers all felicity, and threatning wo and destruction to the breakers thereof, and all the People shall answer, Amen.* The which was afterwards performed by *Joshua*, at his entring into the Land of *Canaan*, and some few days before his death. We see by this that all the People is bound to maintain the Law of God to perfect his Church: and on the contrary to exterminate the Idols of the Land of *Canaan*, a Covenant which can no ways appertain to particulars, but only to the whole body of the People. To which also it seems the incamping of all the Tribes round about the Ark of the Lord, to have reference, to the end that all should look to the preservation of that which was committed to the custody of all. Now for the use and practise of this Covenant we may produce examples, the Inhabitants of *Gabaa* of the Tribe of *Benjamin* ravished the Wife of a *Levite*, which dyed through their violence. The *Levite* divided his Wife into twelve pieces, and sent them to the twelve Tribes, to the end that all the People together might wipe away this so horrible a crime committed in *Israel*. All the People met together at *Mizpah* and required the *Benjamites* to deliver to be punished those that were culpable of this enormous Crime, which they refused to perform, wherefore with the allowance of God himself, the States of the People with an universal consent renounce and make War against the *Benjamites*, and by this means the authority of the second Table of the Law was maintained by the detriment

Jos. 5. 24. and 24. 20, &c.

Judg. 19. 20.

and

and ruine of one entire Tribe which had broken it in one of the precepts. For the first we have an example sufficiently manifest in *Joshua*. After that the *Rubenites*, *Gadites*, and *Manassites* were returned into their dwellings beyond *Jordan*, they incontinently built a goodly Altar near unto the River, this seems to contrary the Commandment of the Lord, who expresly forbids to Sacrifice any where but in the Land of *Canaan* only, wherefore it was to be feared least these men intended to serve Idols. This business being communicated to the People, inhabiting on this side *Jordan*: the place assigned for the meetings of the States was at *Silo* where the Ark of the Lord was. They all accordingly met, and *Phineas* the High-Priest the Son of *Eleazar* was sent to the other to treat with them concerning this offence committed against the Law: And to the end they might know all the people had a hand in this business, they sent also the principal men of every Tribe to complain that the service of God is corrupted, by this devise, that God would be provoked by this rebellion, and become an Enemy, not only to the guilty, but also to all *Israel*, as heretofore in *Beelphegor*. Briefly, that they should denounce open War against them, if they desisted not from this their manner of doing: There must of necessity have followed much mischief, if those Tribes beyond *Jordan* had not protested, that they erected that Altar only for a Memorial that the *Israelites* both on the one and the other side of *Jordan*, both did and do profess one and the same Religion, and at all times whensoever they have shewed themselves negligent in the maintenance of the Service of God, we have seen that they have ever been punished: this is the true cause wherefore they lost two battles against the *Benjamites* according as it appears in the end of the Book of *Judges*; for in so carefully undertaking to punish the rape and outrage done to a particular person, they clearly convinced themselves of much negligent Prophanes in the maintenance of Gods right, by their continual negligence, omission to punish both corporal and spiritual Jos. 22.

whoredoms, there was then in these first times such a Covenant between God and the People.

A covenant between God the King and the people. 2 King. 11. 17. and 23.3.

Now after that Kings were given unto the People, there was so little purpose of disannulling or disbanding the former contract, that it was renewed and confirmed for ever. We have formerly said at the inaugurating of Kings, there was a double Covenant treated of, to wit, *between God, and the King*; and *between God, and the People*. The agreement was first passed between *God, the King, and the People*: Or between the *High-Priest, the People* (which is named in the first place in the 23. Chapter in the 2 Book of the *Chronicles*) *and the King*. The intention of this was, that the *People should be the People of God* (which is as much as to say) *that the People should be the Church of God*, we have shewed before to what end God contracted Covenants with the King: Let us now consider wherefore also he allies himself with the People. It is a thing most certain, that God hath not done this in vain, and if the People had not *authority to promise, and to keep promise*, it were vainly lost time to contract or covenant with them. It may seem then that God hath done like those creditors, which having to deal with not very sufficient borrowers, take divers joyntly bound for one and the same Sum, insomuch as two or more being bound one for another and each of them apart, for the intire payment of the total Sum, he may demand his whole debt of which of them he pleaseth. There was much danger to commit the custody of the Church to one Man *alone*, and therefore God did recommend, and put it in trust *to all the People*: The King being raised to so slippery a place might easily be corrupted, for fear least the Church should stumble with him, God would have the People also to be respondents for it. In the Covenant of which we speak *God*, or [in his place] the *High-Priest* are stipulators, the King and all the People, to wit, *Israel*, do joyntly and voluntarily assume, promise and oblige themselves for one and the same thing. The High-Priest demands if they promise, that the People shall be the People of

2 chron. 23. 16.

God

God, that God shall always have his Temple, his Church amongst them, where he shall be purely served. The King is respondent, so also are the People (the whole Body of the People representing as it were the office and Place of one Man) not severally, but joyntly, as the words themselves make clear, being incontinent, and not by intermission or distance of time the one after the other. We see here then two undertakers, the *King* and *Israel*, which by consequent are bound one for another and each for the whole. For as when *Cajus* and *Titius* have promised joyntly to pay to their Creditor *Seius* a certain sum, each of them are bound for himself and his companion, and the Creditor may demand the sum of which of them he pleaseth. In the like manner the *King* for himself, and *Israel* for it self are bound with all circumspection to see that the Church be not damnified, if either of them be negligent of their Covenant, God may justly demand the whole of which of the two he pleaseth, and the more probably of the people then of the King, and for that many cannot so easily slip away as one, and have better means to discharge the debts then one alone. *In like manner, as when two men that are indebted, especially to the publick Exchequer, the one is in such manner bound for the other, that he can take no benefit of the division granted; by the new Constitutions of Justinian: So likewise the King and Israel promising to pay tribute to God, which is the King of Kings, for accomplishment whereof, the one is obliged for the other. And as two Covenanters by promise, especially in contracts, the obligation whereof expoſeth the Obligees to forfitures and hazards, such as this is here, the failings of the one indamageth the other: so that if Israel forsake their God, and the King makes no account of it, he is justly guilty of Israels delinquency. In like manner, if the King follow after strange Gods, and not content to be seduced himself, seeks also to attract his Subjects, endeavouring by all means to ruine the Church, if Israel seek not to withdraw him from his rebellion, and contain him within the limits of obedience, they make the fault of their King, their own*

L. Mortuo 22. D. de fidei com. L. si non singuli C. fi-cert. Pet. I. penult. D. de duo reis 2 and 3. sect. 1. D. eodem.

L. cum pos. D. de censib. and ibi doctores.

L. cum apparebit, D. locati. L. si divisa. C. eodem.

transgression. Briefly, as when there is danger that one of the debtors by consuming his goods may be disabled to give satisfaction, the other must satisfie the creditors who ought not to be endamaged, though one of his debtors have ill Husbanded his Estate, this ought not to be doubted in regard of *Israel* toward their King, and of the King towards *Israel* in case one of them apply himself to the Service of Idols, or break their Covenant in any other sort, the one of them must pay the forfeiture and be punished for the other. Now that the Covenants of which we at this time treat, is of this Nature, it appears also by other Testimonies of Holy Scripture. *Saul* being established King of *Israel*, *Samuel* Priest and Prophet of the Lord, speaks in this manner to the people. *Both you and your King which is over you serve the Lord your God, but if you persevere in malice* (he taxeth them of malice for that they preferred the Government of a Man before that of God) *you and your King shall perish.* He adds after the reason, *for it hath pleased God to chuse you for his People.* You see here both the parties evidently conjoyned in the condition and the Punishment: In like manner *Asa* King of *Judah*, by the Council of the Prophet *Assary*, assembleth all the People at *Jerusalem*, to wit, *Juda* and *Benjamin*, to enter into Covenant with God. Thither came also divers of the Tribe of *Ephraim Manasses*, and *Simeon*, which were come thither to serve the Lord according to his own ordinance After the Sacrifices were performed according to the Law, the Covenant was contracted in these terms, *Whosoever shall not call upon the Lord God of* Israel, *be he the least or the greatest, let him dye the Death.* In making mention of the greatest, you see that the King himself is not excepted from the designed Punishment.

1 Sam. 12. 14. 25.

2 King. 23. 2. But who may punish the King (for here is question of Corporal and Temporal Punishment?) If it be not the whole Body of the People to whom the King Sweareth and obligeth himself, no more nor less, than the people do to the King, we read also that King

2 Chron. 4. 29. *Josias* being of the Age of twenty and five Years, together

gether with the whole people, doth make a Covenant with the Lord, the King and the People promiſing to keep the Laws, and Ordinances of God, and even then for the better accompliſhing of the Tenour of this agreement, the Idolatry of *Baal* was preſently deſtroyed. If any will more exactly turn over the Holy Bible, he may well find other Teſtimonies to this purpoſe.

But to what purpoſe ſhould the conſent of the people be required, wherefore ſhould *Iſrael* or *Juda* be expreſly bound to obſerve the Law of God? for what reaſon ſhould they promiſe ſo ſolemnly to be for ever the people of God? If it be denied, by the ſame reaſon that they had any Authority from God, or power to free themſelves from perjury, or to hinder the ruine of the Church. For to what end ſhould it ſerve to cauſe the people to promiſe to be the people of God, if they muſt, and are bound to endure and ſuffer the King to draw them after ſtrange Gods. If the people be abſolutely in Bondage wherefore is it commanded then, to take order that God be purely ſerved? if it be ſo that they cannot properly oblige themſelves to God, and if it be not lawful for them by all to indeavour the accompliſhment of their promiſe, ſhall we ſay that God hath made an agreement with them, which had no right neither to promiſe, nor to keep promiſe? But on the contrary, in this buſineſs of making a Covenant with the people, God would openly and plainly ſhow, that the people hath right to make, hold, and accompliſh their promiſes and contracts. For, if he be not worthy to be heard in publick Court that will bargain or contract with a ſlave, or one that is under tutillage, ſhall it not be much more ſhameful to lay this imputation upon the Almighty, that he ſhould contract with thoſe which had no power to perform the conditions covenanted? But for this occaſion it was, that when the Kings had broken their Covenants, the Prophets always addreſſed themſelves to the Houſe of *Juda* and *Jacob*, and to *Samaria*, to advertiſe them of their duties.

L. quod attinet. 32. 1. D. de reg. jur.

ties. Furthermore, they required the people that they not only with-draw themselves from sacrificing to *Baal*, but also that they cast down his Idol, and destroy his Priests and service; yea, even *maugre the King* himself. For example, *Ahab* having killed the Prophets of God, the Prophet *Elias* assembleth the people, and as it were convented the Estates, and doth there Tax, reprehend, and reprove every one of them; the people at his exhortation do take and put to Death the Priests of *Baal*. And for so much as the King neglected his duty, it behoved *Israel* more carefully to discharge theirs without tumult, not rashly, but by *publick Authority*, the Estates being assembled, and the equity of the cause orderly debated, and sufficiently cleared before they came to the execution of justice. On the contrary, so often, and always when *Israel* hath failed to oppose their King, which would overthrow the Service of God, that which hath been formerly said of the two Debtors, the inability and ill Husbandry of the one doth ever prejudice the other, the same hapned to them; for as the King hath been punished for his Idolatry and Disloyalty, the people have also been chastised for their negligence, connivency, and stupidity, and it hath commonly hapned, that the Kings have been much more often swarved, and drawn others with them then the people, for so much as ordinarily the great ones mould themselves into the Fashion of the King, and the people conform themselves in Humors to those that govern them: to be Brief, all more usually offend after the Example of one, then that one will reform himself as he seeth all the rest. This which we say will perhaps appear more plainly by Examples; what do we suppose to have been the cause of the defeat and overthrow of the Army of *Israel* with their
1 Sam. 31. King *Saul*. Doth God correct the people for the sins of the Prince? Is the Child beaten instead of the Father? It is a discourse not easily to be digested, say the Civilians, to maintain that the Children should bear the Punishments due for the offences of their Fathers; the Laws do not permit that any one shall suffer for the wickedness

wickedneſs of another. Now God forbid that the Judge of all the World (ſaith *Abraham*) ſhould deſtroy the innocent with the guilty: On the contrary (ſaith the Lord) as the life of the Father, ſo the life of the Son is in my hands; the Fathers ſhall not be put to Death for the Children, neither ſhall the Children be put to Death for the Fathers; every man ſhall be put to Death for his own Sin, that overthrow then, did it not proceed for that the people oppoſed not *Saul*, when he violated the Law of God; but applauded that miſerable Prince when he wickedly perſecuted the beſt men, as *David* and the Prieſts of the Lord. Amongſt many other Examples let us only produce ſome few. The ſame *Saul* to enlarge the poſſeſſions of the Tribe of *Juda* broke the publick Faith granted to the *Gibeonites*, at the firſt entry of the people into the Land of *Canaan*, and put to Death as many of the *Gibeonites* as he could come by. By this execution *Saul* did break the third Commandment, for God had been called to witneſs this agreement, and the ſixth alſo, in ſo much as he Murthered the Innocent, he ought to have maintained the Authority of the two Tables of the Law; and thereupon it is ſaid, that *Saul* and his Houſe have committed this wickedneſs. In the mean time, after the death of *Saul*, and *David* being eſtabliſhed King, the Lord being demanded, made anſwer that it was already the third Year that the whole Country of *Iſrael* was afflicted with Famin, becauſe of this cruelty, and the hand of the Lord ceaſed not to ſtrike, until that ſeven men of the Houſe of *Saul* were given to the *Gibeonites*, who put them to Death; ſeeing that every one ought to bear his own burden, and that no man is eſteemed the inheritor of anothers crime; wherefore they ſay, that all the whole people of *Iſrael* deſerves to be puniſhed for *Saul*, who was already dead, and had (as it might ſeem) that controverſie buried in the ſame grave with him, but only in regard that the people neglected to oppoſe a miſchief ſo publick and apparent, although they ought and might have done it: Think you it reaſon, that any ſhould be puniſhed unleſs they deſerve it? And in what

Gen. 18. 25. Deut. 24. 16. 2 King. 14. 6. Ezech. 18. 20.

2 Sam. 21. 1.

L. crimen. 26. D. de pœnis.

L. Sancimus c. de pœnis.

hath

hath the people here failed, but in ſuffering the offence
1 Sam. 24. 9. of their King. In like manner when *David* com-
2 Chron. 21. 2. manded *Ioab*, and the Governors of *Iſrael* to Number the people, he is Taxed to have committed a great fault; for even as *Iſrael* provoked the anger of God in demanding a King, one in whoſe wiſdom they ſeemed
Abacuc. 1. 16. to repoſe their ſafety: even ſo *David* did much forget himſelf, in hoping for Victory through the multitude of his Subjects; for ſo much as that is properly (according to the ſaying of the Prophet) to Sacrifice unto their Net, and burn incenſe unto their drag, a kind of abominable Idolatry; for the Governors, they ſeeing that it would draw Evil on the people, a little drew back at the firſt; afterwards, as it were, to be rid of the importunity they made the enrolement: in the mean Seaſon all the people are puniſhed, and not *David* alone, but alſo the Ancients of *Iſrael*, which repreſented the whole Body of the people, put on ſackcloath and aſhes, the which notwithſtanding was not done nor practiſed when *David* committed thoſe horrible ſins of Murther and Adultery. Who ſees not in this laſt Act, that all had ſinned, and that all ſhould repent; and finally that all were chaſtiſed, to wit *David* that had provoked God by ſo wicked a Commandment, the Governors (as Peers and Aſſeſſors of the Kingdom, ought in the Name of all *Iſrael* to have oppoſed the King) by their connivency, and over weak reſiſtance; and all the people alſo which made their appearance to be enroled. God in this reſpect did like a Chief Commander, or General of an Army, he chaſtiſed the offence of the whole Camp, by a ſudden Alarum given to all, and by the exemplary Puniſhments of ſome particulars to keep all the reſt in better awe and order. But tell me wherefore after that the King
2 King. 24. 4. *Manaſſes* had polluted the Temple at *Jeruſalem*, do we
2 Chron. 33. 10. read that God not only Taxed *Manaſſes*, but all the
Ier. 15. 4. people alſo? was it not to advertiſe *Iſrael* one of the ſureties, that if they keep not the King within the limits of his duty, they ſhould all ſmart for it; for what

meant

meant the Prophet *Jeremy* to say, the House of *Juda* is in subjection to the *Assirians*, because of the impiety and cruelty of *Manasses*? but that they were guilty of all his offences, because they made no resistance; wherefore St. *Austin* and S. *Ambrose* said *Herod* and *Pilate* condemned Jesus Christ, the Priests delivered him to be crucifyed, the People seem to have some compassion, notwithstanding all are punished; and wherefore so? for so much as they are all guilty of his death, in that they did not deliver him out of the hands of those wicked Judges and Governors, there must also be added to this many other proofs drawn from divers Authors for the further explication of this point, were it not that the testimonies of Holy Scripture ought to suffice Christians. Furthermore, in so much as it is the duty of a good Magistrate, rather to endeavour to hinder and prevent a mischief, than to chastise the delinquents after the offence is committed, as good Physitians that prescribe a diet to allay and prevent Diseases, as well as Medicins to cure them: In like manner a People truly affected to true Religion, will not simply consent themselves to reprove and repress a Prince that would abolish the Law of God, but also will have special regard, that through malice and wickedness he innovate nothing that may hurt the same, or that in tract of time may corrupt the pure service of God; and instead of supporting publick offences committed against the Divine Majesty, they will take away all occasions wherewith the offenders might cover their faults; we read that to have been practised by all *Israel* by a Decree of Parliament in the Assembly of the whole People, to remonstrate to those beyond *Jordan*, touching the Altar they had builded, and by the King *Ezechias*, which caused the brasen Serpent to be broken. It is then lawful for *Israel* to resist the King, which would overthrow the Law of God and abolish his Church, and not only so, but also they ought to know that in neglecting to perform this duty, they make themselves culpable of the same crime, and shall bear the like Punishment with their King.

S. *August.* upon Psal. 82. *Ambro. in offic.*

If their assaults be verbal, their defence must be likewise verbal, if the Sword be drawn against them, they may also take Arms, and fight either with tongue or hand, as occasion is: yea, if they be assailed by surprisals, they may make use both of ambuscadoes and countermines, there being no rule in lawful War, that directs them for the manner, whether it be by open assailing their enemy, or by close surprising; provided always, that they carefully distinguish between advantageous strategems, and perfidious Treason, which is always unlawful.

Augustin. in Josh. 23. q. 2.

But I see well, here will be an objection made, what will you say? That a whole People, that beast of many heads, must they run in a mutinous disorder, to order the business of the Common-wealth? What address or direction is there in an unruly and unbridled multitude? what counsel or Wisdom, to manage the affairs of State?

Dominus l. 1. D. de dolo malo.

When we speak of all the people, we understand by that, only those which hold their Authority from the people, to wit, the Magistrates, which are inferiour to the King, and whom the people hath substituted, or established, as it were Consorts in the Empire, and with a kind of Tribunitial authority, to restrain the encroachments of Sovereignty, and to represent the whole body of the People. We understand also, the Assembly of the Estates, which is nothing else but an Epitomy, or brief collection of the Kingdom, to whom all publick Affairs have special and absolute reference, such were the Seventy Antients in the Kingdom of *Israel*, amongst whom the High Priest was as it were President, and they judged all matters of greatest importance, those seventy being first chosen by six out of each Tribe, which came out of the Land of *Egypt*, then the Heads or Governors of Provinces; In like manner the Judges and Provosts of Towns, the Captains of thousands, the Centurions and others which commanded over Families the most valiant noble and otherwise notable Personages, of whom was composed the Body of the States, assembled divers times as it plainly appears by the word

What is to be understood by this word people.

of

of the Holy Scripture. At the Election of the first King which was *Saul*, all the Antients of *Israel* assembled together at *Kama*. In like manner and all *Israel* was assembled, or all *Judah* and *Benjamin*, &c. Now it is no way probable, that all the People one by one met together there. Of this rank there are in every well governed Kingdom, the Princes, the Officers of the Crown, the Peers, the greatest and most notable Lords, the Deputies of Provinces, of whom the ordinary Body of the Estate is composed, or the Parliament or the Diet, or other Assembly, according to the different Names used in divers Countries of the World in which Assemblies the principal care is had both for the preventing and reforming either of disorder or detriment in Church or Common-wealth. For as the Counsels of *Basil* and *Constance* have decreed (and well decreed) that the universal Council is in Authority above the Bishop of *Rome*. As in like manner the whole Chapter may over-rule the Bishop, the University, the Rector, the Court, the President: Briefly he whosoever he is that hath received authority from a Company, is inferior to that whole company, although he be superior to any of the particular Members of it. Also is it without any scruple or doubt, that *Israel* which demanded and established a King as Governor of the Publick must needs be above *Saul* established at their request, and for *Israel's* sake as it shall be more fully proved hereafter. And for so much as an orderly proceeding is necessarily required in all affairs discretely addressed, and that it is not so probably hopeful that order shall be observed amongst so great a number of people; yea, and that there often-times occurs occasions which may not be communicated to a multitude, without manifest danger of the Common-wealth. We say, that all that which hath been spoken of Priviledges granted, and right committed to the People, ought to be referred to the Officers and Deputies of the Kingdom: and all that which hath been said of *Israel*, is to be understood of the Princes and Elders of *Israel*, to whom these things were granted and committed as the Practise also hath verified. 1 Sam. 8. 4.

2 Chron. 23. The Queen *Athalia* after the death of her Son *Ahazia* King of *Judah*, put to death all those of the royal blood, except little *Joas*, which being yet in the cradle was preserved by the Piety and Wisdom of his Aunt *Jehoshabeah*. *Athalia* possesseth her self of the government, and reigned six years over *Judah*. It may well be the People murmured between their Teeth, and durst not by reason of danger express what they thought in their minds. Finally, *Jehoida* the High-Priest the husband of *Jehoshabeah*, having secretly made a League and Combination with the chief Men of the Kingdom, did anoint and Crown King his Nephew *Joas*, being but seven years old. And he did not content himself to drive the Queen Mother from the Royal Throne, but he also put her to death and presently overthrew the Idolatry of *Baal*. This deed of *Jehoiada* is approved, and by good reason, for he took on him the defence of a good Cause, for he assailed the Tyranny, and not the Kingdom. The Tyranny (I say) which had no Title, as our modern Civilians speak. For by no Law were Women admitted to the Government of the Kingdom of *Judah*. Furthermore, that Tyranny was in vigor and practice: For *Athalia* had with unbounded mischief and cruelty invaded the Realm of her Nephews, and in the administration of that Government committed infinite wickedness, and which was the worst of all, had cast off the Service of the living God to adore and compel others with her to worship the Idol of *Baal*. Therefore then was she justly punished, and by him which had a lawful calling and authority to do it. For *Jehoida* was not a privat and particular Person, but the High Priest, to whom the knowledg of civil Causes did then belong: And besides he had for his Associates, the principal Men of the Kingdom, the *Levites*, and being himself the Kings kinsman and ally. Now for so much as he assembled not the estates at *Mizpah* according to the accustomed manner, he is not reproved for it, neither for that he consulted and contrived the matter secretly, for that if he had held any other manner of proceeding, the business must probably

Bartol de Tirannid.

Deut. 17. 15.

probably have failed in the execution and success.

A combination or conjuration is good or ill according as the end whereunto it is addressed is good or ill; and perhaps also according as they are affected which are the managers of it. We say then that the Princes of *Judah* have done well, and that in following any other course they had failed of the right way. For even as the Guardian ought to take charge and care that the goods of his Pupil fall not into loss and detriment, and if he omit his duty therein, he may be compelled to give an account thereof: In like manner, those to whose custody and tuition the People have committed themselves, and whom they have constituted their Tutors and Defenders ought to maintain them safe and entire in all their rights and priviledges. To be short, as it is lawful for a whole People to resist and oppose Tyranny; so likewise the principal Persons of the Kingdom may as Heads, and for the good of the whole Body, confederate and associate themselves together, and as in a publick State, that which is done by the greatest part is esteemed and taken as the Act of all, so in like manner must it be said to be done, which the better Part of the most Principal have acted; briefly, that all the People had their hand in it.

Bartol. in tract. de Guelph. and Gibel.

Vlp. l. 260. D. de reg. juri.

But here presents it self another Question the which deserves to be considered, and amply debated in regard of the circumstance of time. Let us put the case that a King seeking to abolish the Law of God, or ruine the Church, that all the people or the greatest part yeild their consents, that all the Princes or the greatest Number of them make no reckoning; and notwithstanding, a small handful of people, to wit, some of the Princes and Magistrates desire to preserve the Law of God entirly and inviolably, and to serve the Lord purely: what may it be lawful for them to do? if the King seek to compel these men to be Idolaters, or will take from them the exercise of true religion? We speak not here of private and particular persons considered one by one, and which in that manner are not held as

Whether part of a Kingdom may make resistance.

as parts of the entire body; As the planks, the Nails, the pegs, are no part of the Ship, neither the ſtones, the Rafters, nor the rubbiſh are any part of the Houſe: but we ſpeak of ſome Town or Province, which makes a portion of a Kingdom, as the prow, the poop, the keel and other parts make a Ship: the Foundation, the Roof, and the Walls make a Houſe. We ſpeak alſo of the Magiſtrate which governs ſuch a City or Province. If we muſt make our Defence with producing of *Examples*, although we have not many ready by reaſon of the backwardneſs and careleſneſs of men when there is Queſtion to maintain the ſervice of God: notwithſtanding, we have ſome few to be examined and received according as they deſerve. *Libna*, a Town of the Prieſts withdrew it ſelf from the obedience of *Joram* King of *Judah*, and left that Prince, becauſe he had abandoned the God of his Fathers whom thoſe of that Town would ſerve, and it may be they feared alſo leſt in the end they ſhould be compelled to Sacrifice to *Baal*. In like manner when that the King *Antiochus* Commanded that all the Jews ſhould imbrace his Religion, and ſhould forſake that which the God Almighty had taught them *Mattathias* anſwered, we will not obey, nor will we do any thing contrary to our Religion, neither did he only ſpeak, but alſo being tranſported with the zeal of *Phineas*, he killed with his own hands a *Jew*, which conſtrained his fellow Citizens to Sacrifice to Idols; then he took Arms and retired into the Mountain, gathered Toops, and made War againſt *Antiochus*, for Religion, and for his Country with ſuch ſucceſs, that he regained *Jeruſalem*, broke and brought to nothing the power of the Pagans which they had gathered to ruine the Church, and then reeſtabliſh'd the pure Service of God. If we will know who this *Mattathias* was, he was the Father of the *Machabees* of the Tribe of *Levi*; inſomuch as it was not lawful for him according to the received cuſtom and right of his race to reſtore the Kingdom by Arms from the Tyranny of *Antiochus*. His followers were ſuch as fled

John 21. 13.
1 Chron. 6. 17.
2 Chron. 21. 10.

1 Mac. 1. 43. and 2. 22. and 3. 43.

to.

to the mountains together, with the inhabitants of *Modin*, to whom had adjoyned themselves divers neighbouring *Jews*, and other fugitives from sundry quarters of *Judea*; all which solicitously desired the re-establishment of the Church. Almost all the rest, yea, the principals obeyed *Antiochus*, and that after the rout of his Army, and his own miserable Death: Although there were then a fair occasion to shake off his yoke, yet the *Jews* sought to the Son of *Antiochus*, and intreated him to take on him the Kingdom, promising him fidelity and obedience. I might here produce the example of *Debora*. The Lord God had subjected *Israel* to *Jabin* King of *Canaan*, and they had remained in this servitude the space of twenty years, which might seem in some sort to have gained a right by prescription over the Kingdom; and together also that almost all *Israel* followed after strange Gods. The principal and most powerful Tribes, to wit, *Ruben*, *Ephraim*, *Benjamin*, *Dan*, *Asher*, and some others adhered wholly to *Jabin*. Yet notwithstanding the Propheteſs *Debora* which judged *Israel*, caused the Tribes of *Zebulon*, *Nephthalie*, and *Issachar*, or at the least some of all those Tribes, to take Arms under the Conduct of *Barac*, and they overthrew *Sisera* the Lieutenant of *Jabin*, and delivered *Israel*, which had no thought of Liberty, and was content to remain in Bondage; and having shaken off the yoke of the *Canaanites* they re-established the pure service of the living God. But for so much as *Debora* seems to have an extraordinary vocation, and that the Scripture doth not approve in expres terms the doings of them of *Libna*, although that in not disallowing of their proceedings, it may seem in some sort to allow them, and for that the History of the *Machabees* hath had no great Authority in the Ancient Church and for that it is commonly held that an assertion must be proved by Laws and Testimonies, not by examples, let us examine by the effect what we ought to judge according to the right of the Matter now in question. We have formerly

1 Mac. 6. 21. &c.

formerly said that the King did swear to keep the Law of God, and promis'd to the uttermost of his Power to maintain the Church; that the People of *Israel* considered in one Body covenanting by the High-Priest, made the same Promise to God. Now at this present we say, that all the Towns and all the Magistrates of these Towns which be parts and portions of the Kingdom, promise each of them in his own behalf, and in express terms the which all Towns and Christian Communalties have also done, although it have been but with a tacite consent.

Josuah 24. *Joshua* being very old and near to his death, assembled all *Israel* at *Sichem* in the presence of God, to wit, before the Ark of the Covenant which was there. It is said that the Antients of the People, the Heads of the Tribe, the Judges and Governors, and all which had any publick command in the Town of *Israel* met together there, where they swore to observe and keep the Law of the Lord, and did willingly put on the yoke of the Almighty God: whereby it appears that these Magistrates did oblige themselves in the Names of their Towns and Communalties, which did send them to take order, that God should be served throughout the whole Country, according as he had revealed in his Law. And *Joshuah* for his part having passed this contract of agreement between God and the People, and inregistred the whole according as it was done, for a perpetual memorial of the matter he incontinently set up a stone.

1 Chron. 18. 2 Chron. 3. 1 Kings 7. 1 Chron. 28. 2 Kings 11. 2 Kings 23. 2 Chron. 23. If there were occasion to remove the Ark of the Lord, The principals of the Country and Towns, the Captains, the Centurious, the Provosts, and others were summoned by the Decree and Commandment of *David*, and of the Synagogue of *Israel*, if there be a purpose of building the Lords Temple, the same course is observed. And to the end it be not supposed, that some alteration hath been inserted after the Creation of Kings: In the times of *Joas* and *Josias*, when there was question of renewing the Covenant between God and the People, all the Estates met together, and all were bound and obliged particularly. Also not only the

the King, but the Kingdom, and not only all the Kingdom, but also all the Pastors of the Kingdom promise each of them for their selves, fidelity and obedience to God. I say again, that not only the King and the People, but also all the Towns of *Israel*, and their Magistrates, oblige themselves to God, and as homagers to their liege Lord tie themselves to be his for ever, with and against all men, for further proof of the aforesaid, I would entreat the Reader to diligently turn over the Holy Bible, especially in the Books of the *Kings* and the *Chronicles*. But for a yet more ample explication of this matter, let us produce for example what is in practise at this day. In the Empire of *Germany*, when the Emperor is to be crowned, the Electors and Princes of the Empire, as well Secular as Ecclesiastical, meet together personally, or else send their Ambassadors. The Prelates, Earls and Barons, and all the Deputies of the Imperial Towns, come thither also, or else send special Proxies; then do they their homage to the Emperor, either for themselves, or for them whom they represent, with, and under, certain Conditions: Now let us presuppose that one of these which hath done homage voluntarily, do afterwards endeavor to depose the Emperor, and advance himself into his place, and that the Princes and Barons deny their Soveraign the succors and tribute which they owe him, and that they have intelligence with that other which conspired and sought to possess himself of the Imperial Throne; Think you that they of *Straesbourgh* or of *Nurembergh*, which have bound themselves by faith unto the lawful Emperor, have not lawful right to repress and exclude this Trayterous Intruder? Yea, on the contrary, if they do it not, if they give not succors to the Emperor in this his necessity, think you that they have satisfied or performed their fealty and promise, seing that he which hath not preserved his Governour when he had means to do it, ought to be held as culpable and guilty, as he which offered the violence and injury unto him.

L. 3. *l. Omne delict. Sect. ult. D. de re mil.*

If it be so (as every one may sufficiently see it is) is it not then lawful for the men of *Libna* and of *Modin*? and doth not their duty enjoyn them to do as much as if the other Estates of the Kingdom have left God to whose service and pleasure they know and acknowledge themselves to be bound to render obedience. Let us imagine then some *Joram* or *Antiochus* which aboliſheth true Religion, and lifts up himself above God, that *Israel* connives and is content, what should that Town do which desires to serve God purely? First, they
Josh. 14. 15. should say with *Joshua*, for their parts, look whom you desire rather to obey, the living God, or the Gods of the *Amorites*, for our parts we and our Families will serve the Lord. Chuse you then I say, if you will obey in this point him, which without any right usurps that power and Authority which no way appertains unto him, for my part, hap what may, I will keep my faith to him to whom I promised it. I make no question, but that *Joshua* would have done the uttermost of his endeavour to maintain the pure service of the living God in *Thamnathe Serathe*, a Town of *Ephraim*, where his House and Estate lay; if the *Israelites* besides had so much forgot themselves as to have worshipped the God of the *Amorites* in the Land of *Canaan*. But if the King should pass yet further, and send his Lieutenants to compel us to become Idolaters, and if he commands us to drive God and his service from amongst us; shall we not rather shut our Gates against the King and his Officers, then drive out of our Town the Lord which is the King of Kings? Let the Burgesses and Citizens of Towns, Let the Magistrates and Governors of the People of God dwelling in Towns, consider with themselves that they have contracted two Covenants, and taken two Oaths: The first and most ancient with God, to whom the People have sworn to be his people: the second and next following, with the King, to whom the people hath promised obedience, as unto him which is the Governor and Conductor of the people of God. So then, as if a Vice-

Roy

Roy conſpiring againſt his Soveraign, although he had received from him an unlimitted Authority, if he ſhould ſummon us to deliver the King whom he held beſieged within the incloſure of our Walls, we ought not to obey him, but reſiſt with the uttermoſt of our power and means according to the Tenor of our Oath of Allegiance: In like manner think we that it is not a wickedneſs of all moſt deteſtable, if at the pleaſure of a Prince which is the vaſſal and ſervant of God, we ſhould drive God from dwelling amongſt us, or deliver him (as far as in us lieth) into the hands of his Enemies. You will ſay, it may be that the Towns appertain to the Prince. And I anſwer, that the Towns conſiſt not of a heap of ſtones, but of that which we call People, that the People is the People of God, to whom they are firſt bound by Oath: and Secondly, to the King. For the Towns, although that the Kings have power over them, notwithſtanding the right of Inheritance of the Soil belongs to the Citizens and owners, for all that which is in a Kingdom, is indeed under the Dominion of the King, but not of his proper Patrimony: God in truth is the only Lord propriator of all things, and it is of him that the King holds his Royalties, and the people their Patrimony. This is as much as to ſay, you will reply, that for the cauſe of Religion it ſhall be lawful for the Subjects to revolt from the obedience of their King, if this be once granted, it will preſently open a gap to rebellion? But hearken I pray you patiently, and conſider this matter more throughly: I might anſwer in a word, that of two things, if the one muſt needs be done, it were much better to forſake the King, then God; or with St. *Auguſtine* in his fourth Book, of the City of God, chap. 4. and in the Nineteenth Book, and Chapter the 21. That where there is no Juſtice, there is no Common-wealth, that there is no Juſtice, when he that is a mortal man would pull another man out of the hands of the immortal God, to make him a ſlave of the Devil, ſeing that Juſtice is a vertue that gives to

10 *Collat de forma Fidei, & c. 1. de nova fidel. form.*

Senec. *l. 7. de Benef. c. 6, 7. &c.*

every one that which is his own, and that those which draw their Necks out of the Yoke of such Rulers, deliver themselves from the Tyranny of wicked Spirits, and abandon a multitude of robbers, and not the Commonwealth. But to re-assume this Discourse a little higher, those which shall carry themselves as hath been formerly said, seem no ways accusable of the crime of revolt. Those are said properly to quit the King or the Common-wealth, which with the heart and purpose of an Enemy withdraw themselves from the obedience of the King or the Common-wealth, by means whereof they are justly accounted Adversaries, and are often-times much more to be feared, then any other Enemies. But those of whom we now speak, do nothing resemble them. First, they do in no sort refuse to obey, provided that they be commanded that which they may lawfully do, and that it be not against the honour of God.

L. 5. D. de cap. minut.

They pay willingly the Taxes, Customs, Imposts, and ordinary payments, provided that with these they seek not to abolish the tribute which they owe unto God. They obey *Cæsar* while he commands in the quality of *Cæsar*; but when *Cæsar* passeth his bounds, when he usurps that Dominion which is none of his own, when he endeavours to assail the Throne of God, when he wars against the Soveraign Lord both of himself and the People; they then esteem it reasonable not to obey *Cæsar*; and yet after this to speak properly, they do no Acts of hostility. He is properly an Enemy which stirs up, which provokes another, which out of military insolency, prepareth and setteth forth Parties to War. They have been urged and assailed by open War, and close and treacherous surprisals; when death and destruction environs them round about, then they take arms, and wait their enemies assaults: you cannot have Place with your enemies when you will; for if you lay down your Weapons, if you give over making War they will not for all that disarm themselves, and loose their advantage. But for these Men, desire but place and you

have it, give over but assailing them, and they will lay down their Arms, cease to fight against God, and they will presently leave the lists, will you take their Swords out of their hands? abstain you only then from striking, seeing they are not the assailants, but the defendants, sheath your Sword, and they will presently cast their Buckler on the ground, which hath been the reason that they have been often surprized by perfidious ambuscadoes, whereof these our times have afforded over frequent examples. Now as we cannot call that servant stuborn or a fugitive, which puts by the blow, which his Lord strikes at him with his Sword, or which withdraws or hides himself from his Masters fury, or shuts his Chamber door upon him, until his Choler and heat be passed over, much less ought we to esteem those seditious, which (holding the name and place of Servants and Subjects) shut the Gates of a City against their Prince, transported with anger, being ready to do all his just Commandments, after he hath recovered his judgment, and related his former indignation; we must place in this rank, *David* Commander of the Army of *Israel*, under *Saul*, a furious King. *David* oppressed with calumnies and false Taxations, watched and way-layed from all parts, he retired unto, and defended himself in unaccessible Mountains, and provided for his defence to oppose the walls of *Ceila* against the Fury of the King; yea, he drew unto his Party all those that he could, not to take away *Saul*'s Life from him, as it plainly appeared afterwards, but to defend his own Cause: see wherefore *Jonathan* the Son of *Saul*, made no difficulty, to make alliance with *David*, and to renew it from time to time, the which is called the Alliance of the Almighty. And *Abigal* saith in expres words, that *David* was wrongfully assailed, and that he made the War of God. We must also place in this rank the *Machabees*, which having good means to maintain Wars, were content to receive Peace from King *Demetrius* and others, which *Antiochus* had offered them before, because by it, they should be secured in the free possession and exercise

1 *Sam.* 21. 22. 2 *Sam.*

Mach. 6. 60. &c.

exercise of their Religion. We may remember that those which in our times have fought for true Religion against *Antichrist*, both in *Germany* and *France*, have laid down Arms as soon as it was permitted them to serve God truely according to his Ordinance, and oftentimes having fair means and occasion to advance and continue the War to their much advantage: as had *David* and the *Machabees*, where the *Philistins* constrained *Saul* to leave *David* to look to his own defence, and those Clouds of neighbouring enemies in *Antiochus*, saw ready to dissolve upon his head, hindered him also from pursuing the *Machabees*. See then the marks which distinguish and separate sufficiently those of whom we speak from Rebels or Seditious.

But let us yet see other evident Testimonies of the equity of their cause; for their defection is of that nature, that take but away the occasion, if some extream necessity compel not the contrary, they presently return to their former condition, and then you cannot properly say, they separated themselves from the King, or the Communality; but that they left *Joram*, and *Antiochus*, or if you will, the Tyranny and unlawful power of one alone, or if divers particulars, which had no authority nor right to exact obedience in the same manner, as they commanded, The *Sorboniſt* Doctors have taught us the like sundry times: whereof we will alledge some examples.

About the year 1300 Pope *Boniface* the 8 seeking to appropriate to his See, the Royalties that belonged to the Crown of *France*: *Philip* the fair, the then King, doth taunt him somewhat sharply: the tenor of whose tart Letters are these;

Philip by the Grace of God, King of the French, to Boniface, calling himself Soveraign Bishop, little or no health at all.

Be it known to the great foolishness and unbounded rashness, that in temporal Matters we have only God for our superior, and that the vacancy of certain Churches, belongs to us by Royal Prerogative, and

and that appertains to us only to gather the fruits and we will defend the poſſeſſion thereof againſt all oppoſers, with the edge of our Swords, accounting them fools, and without brains that hold a contrary opinion. In thoſe times all men acknowledged the Pope for Gods Vicar on Earth, and Head of the Univerſal Church: Inſomuch, that (as it is ſaid) common error went inſtead of a Law, notwithſtanding the *Sorboniſts* being aſſembled, and demanded, made anſwer, that the King and the Kingdom might ſavely without blame or danger of Schiſm, exempt themſelves from his obedience, and flatly refuſe that which the Pope demanded; for ſo much as it is not the ſeparation, but the cauſe which makes the Schiſm, and if there were Schiſm, it ſhould be only in ſeparating from *Boniface*, and not from the Church, nor from the Pope, and that there was no danger nor offence in ſo remaining until ſome honeſt man were choſen Pope. Every one knows into what perplexities, the conſciences of a whole Kingdom would fall, which held themſelves ſeparated from the Church, if this diſtinction be not true. I would demand now, if it be not yet more lawful to make uſe of this diſtinction, when a King invades and incroacheth on the juriſdiction of God, and oppreſſeth with hard ſervitude, the Souls dearly bought with the pretious blood of *Jeſus Chriſt*. Let us add another example.

In the year of our Lord 1408. when Pope *Benedict* the 13. did oppoſe the *French* Church by tributes and exactions; the Clergy aſſembled, by the Command of King *Charles* the 6 decreed, That the King and Inhabitants of the Kingdom ought not to obey *Benedict*, which was an Heretick, a Schiſmatick, and altogether unworthy of that dignity: the which the Eſtates of the Kingdom approved, and the Parliament of *Paris* confirmed by a decree. The ſame Clergy alſo ordained that thoſe which had been excommunicated by that Pope, as forſakers and enemies of the Church, ſhould be preſently abſolved, nullifying all ſuch excommunications, and

Annals of France monſtrelet.

and this hath been practiſed not in *France* only, but in other places alſo, as Hiſtories do credibly report The which gives us juſt occaſion moſt perſpicuouſly to ſee and know, that if he which holds the place of a Prince do govern ill, there may be a ſeparation from him without incurring juſtly the blame of revolt; for that they are things in themſelves directly contrary, to leave a bad Pope, and forſake the Church, a wicked King, and the Kingdom. To return to thoſe of *Lobna*, they ſeem to have followed this before remembred expedient; for after the re-eſtabliſhment of the ſervice of God they preſently became again the Subjects of King *Ezekias*. And if this diſtinction be allowed place, when a Pope incroacheth on the rights of any Prince, which notwithſtanding in ſome caſes acknowledgeth him for his Soveraign. Is it not much more allowable, if a Prince which is a Vaſſal in that reſpect, endeavours to aſſure and appropriate to himſelf the rights of God. Let us conclude then to end this diſcourſe, that all the people by the authority of thoſe, into whoſe hands they have committed their power, or divers of them may, and ought to reprove and repreſs a Prince, which Commands things againſt God. In like manner, that all, or at the leaſt, the principals of Provinces or Towns, under the Authority of the chief Magiſtrates, eſtabliſhed firſt by God, and ſecondly by the Prince, may according to Law and Reaſon, hinder the entrance of Idolatry, within the incloſure of their Walls, and maintain their true Religion: yea further, they may extend the Confines of the Church, which is but one, and in failing hereof if they have means to do it: they juſtly incur the penalty of High-Treaſon againſt the Divine Majeſty.

2 *Kings* 19.8.

Extrav. de majo. & obed.

Whether private men may reſiſt by Arms?

It remains now that we ſpeak of particulars which are private Perſons. Firſt, particulars or private Perſons, are not bound to take up Arms againſt the Prince which would compel them to become Idolaters. The Covenant between God and all the people who promiſe

L. ſicut 7, S. 1. D. quod cujuſque univerſ.

miſe to be the people of God, doth not in any ſort bind them to that; for as that which belongs to the whole univerſal body, is in no ſort proper to particulars: ſo in like manner that which the body owes and and is bound to perform, cannot by any ſenſible reaſon be required of particular Perſons; neither doth their duty any thing oblige them to it; for every one is bound to ſerve God in that proper vocation, to which he is called. Now private Perſons they have no Power, they have no publick command, nor any calling to unſheath the ſword of Authority; and therefore as God hath not put the Sword into the hands of private Men; ſo doth he not require in any ſort that they ſhould ſtrike with it. It is ſaid to them, *put up thy ſword into thy Scabbard.* On the contrary the Apoſtles ſays of Magiſtrates, they carry not the Sword in vain; If particular Men draw it forth they make themſelves Delinquents; If Magiſtrates be ſlow and negligent to uſe it when juſt occaſion is offered, they are likewiſe juſtly blameable of negligence in performing their duties, and equally guilty with the former. But you will ſay unto me, hath not God made a Covenant, as well with particular Perſons as with the generality, with the leaſt as well as the higheſt? To what purpoſe was Circumciſion and Baptiſm ordained? What meaneth that frequent repetition of the Covenant in ſo many Paſſages of Holy Writ? All this is true, but the conſideration hereof is diverſe in their ſeveral kinds: For as all the Subjects of a good and faithful Prince, of what degree ſoever they be, are bound to obey him; but ſome of them notwithſtanding have their particular duty, as Magiſtrates muſt hold others in obedience, in like manner all Men are bound to ſerve God; but as ſome they are placed in a higher rank, have received greater Authority in ſo much as they are accountable for the offences of others; if they attend not the charges of the Communalty carefully. *Mat.* 26. *Rom.* 13.

The Kings, the Communalties of the People, the Magiſtrates into whoſe hands the whole Body of the Common-wealth hath committed the ſword of authority,

must and ought to take care that the Church be maintained and preserved, particulars ought only to look that they render themselves Members of this Church. Kings and Popular Estates are bound to hinder the pollution or ruine of the Temple of God, and ought to free and defend it from all corruption within, and all injury from without. Private Men must take order, that their Bodies, the Temples of God, be pure, that they may be fit receptacles for the Holy Ghost to dwell in them. If a-
1. *Cor.* 3. 17. and 6. 19. ny man defile the Temple of God, saith the Apostle, him shall God destroy; for the Temple of God is holy, which Temple ye are, to the former he gives the sword which they bear with authority; to the other he recommends the sword of the Spirit only, to wit, the word of
Ephes. 6. 17. God, wherewith St. *Paul* arms all Christians, against the assaults of the Divel, what shall then private men do? if the King will constrain them to serve Idols? If the Magistrates into whose hands the people hath consigned their Authority, or if the Magistrates of the place, where these particulars dwell, do oppose these proceedings of the King: let them in Gods name obey their leaders, and imploy all their means (as in the service of God) to aid the Holy and commendable Enterprises of those, which oppose themselves lawfully, against his wicked intention. Amongst others, they have the examples of the Centurions, and men at arms, which readily and cheerfully obeyed the Princes of *Juda*, who stirred up by *Jehoidas*, purged the Church from all prophanation, and delivered the Kingdom from the Tyranny of *Athaliah*. But if the Princes, and Magistrates, approve the courses of an outragious and irreligious Prince, or if they do not resist him, we must
Mat. 10. 23. lend our Ears to the Council of Jesus Christ, to wit, retire our selves into some other place; we have the example of the faithful mixed among the ten Tribes of *Israel*, who seing the true service of God abolished by *Jeroboam*, and that none made any accompt of it, they retired themselves into the territories of *Judah*, where Religion remained in her purity: let us rather forsake

forſake our livelyhoods and lives, then God, let us rather be Crucified our ſelves, then Crucifie the Lord of Life: fear not them (ſaith the Lord) which can only kill the Body. He himſelf, his *Apoſtels*, and an infinit Number of Chriſtian Martyrs, have taught us this by their examples; ſhall it not then be permitted to any private perſon to reſiſt by Arms? what ſhall we ſay of *Moſes*, which lead *Iſrael* away in deſpite of King *Pharoah*? And of *Ehud*, which after ten Years ſervitude, when *Iſrael* might ſeem to belong by right of preſcription, to him which held the poſſeſſion thereof, he killed *Eglon*, the King of *Moab*, and delivered *Iſrael* from the Yoak of the *Moabites*, and of *Jehu*, which put to death his Lord the King *Joram*, extirpated the race of *Ahab*, and diſtroyed the Prieſts of *Baal*, were not theſe particulars? I anſwer, that if they be conſidered in themſelves, they may well be accounted particular perſons, inſomuch as they had not any ordinary vocation; But ſeeing that we know that they were called Extraordinarily, and that God himſelf hath (if we may ſo ſpeak) put his Sword into their hands, be it far from us to account them particular or private perſons: but rather let us eſteem them by many degrees, excelling any ordinary Magiſtrates whatſoever. The calling of *Moſes* is approved by the expreſs word of God, and by moſt evident miracles, it is ſaid of *Ehud*, that God ſtirred him up to kill the Tyrant, and deliver *Iſrael*; for *Jehu*, he was anointed by the Commandment of the Prophet *Elizeus*, for to root out the race of *Ahab*, beſides, that the principal men ſaluted him King, before he executed any thing. There may as much be ſaid of all the reſt, whoſe examples are propounded in holy Writ. But where God Almighty doth not ſpeak with his own mouth, nor extraordinarly by his Prophets, it is there that we ought to be exceeding cautious, and to ſtand upon our Guards; for if any ſuppoſing he is inſpired by the Holy-Ghoſt, do attribute to himſelf the before mentioned Authority, I would intreat him to look that he be not puffed up with vain Glory, and

leaſt he make not a God to himſelf of his own fancy, and Sacrifice to his own inventions, let him not then be conceived with vanity, leaſt inſtead of Fruit he bring forth deluding Lies. Let the people alſo be adviſed on their parts, leaſt in deſiring to fight under the Banner of *Jeſus Chriſt*, they run not to their own confuſion to follow the Army of ſome *Gallilean Thendas*, or of *Barcozba*: as it happened to the *Peaſants* and *Anabaptiſts* of *Munſter*, in *Germany*, in the Year 1323. I will not ſay, notwithſtanding that the ſame God which to puniſh our offences, hath ſent us in theſe our days, both *Pharoes* and *Ahabs*, may not ſometimes raiſe up extraordinary deliverances to his people: certainly his juſtice and his mercy continue to all Ages, firm and immutable. Now if theſe viſible miracles appear not as in former times; we may yet at the leaſt fall by the effects that God works miraculouſly in our Hearts, which is when we have our minds free from all ambition, a true and earneſt zeal, a right knowledge, and conſcience; leaſt being guided by the Spirit of errour or ambition, we rather make Idols of our own imaginations, then ſerve and worſhip the true and living God.

Whether it be lawful to take Arms for Religion?

Furthermore to take away all ſcruple, we muſt neceſſarily anſwer, thoſe which eſteem, or elſe would, that others ſhould think they hold that opinion, that the Church ought not to be defended by Arms. They ſay with all that, it was not without a great Miſtery, that God did forbid in the Law, that the Altar ſhould be made or adorned with the help of any Tool of Iron; in like manner, that at the building of the Temple of *Solomon*: there was not heard any noiſe Ax or Hammer, or other Tools of Iron; from whence they Collect the Church which is the lively Temple of the Lord, ought not to be reformed by Arms; yea, as if the Stones of the Altar, and of the Temple, were hewed and taken out of the quarries without any Inſtrument of Iron,

Iron, which the Text of the Holy Scripture doth sufficiently clear. But if we oppose to this goodly Allegory, that which is written in the fourth Chapter of the Book of *Nehemiah*, that one part of the people carried mortar, and another part stood ready with their weapons, that some held in one hand their swords, and with the other carried the Materials to the workmen, for the rebuilding of the Temple; to the end, by this means to prevent their Enemies from ruining their Work; we say also, that the Church is neither advanced, nor edifyed by these material weapons; but by these arms it is warranted, and preserved from the violence of the enemies, which will not by any means endure the encrease of it. Briefly, there hath been an infinite number of good Kings and Princes (as Histories do testifie, which by Arms have maintained and defended the service of God against Pagans. They reply readily to this, that Wars in this manner were allowable under the Law; but since the time that Grace hath been offered by Jesus Christ, who would not enter into *Jerusalem* mounted on a brave Horse; but meekly sitting on an Ass; this manner of proceeding hath had an end, I answer first, that all agree with me in this, that our Saviour Christ during all the time that he conversed in this world, took not on him the Office of a Judge or King; but rather of a private Person, and a Delinquent by imputation of our transgressions; so that it is an Allegation besides the purpose, to say that he hath not managed Arms. But I would willingly demand of such Exceptionists; whether that they think by the coming of Jesus Christ in the flesh, that Magistrates have lost their right in the Sword of Authority? If they say so, St. *Paul* contradicts them, who says that the Magistrates carrys not the Sword in vain, and did not refuse their assistance and power, against the violence of those which had conspired his death. And if they consent to the saying of the Apostle to what purpose should the Magistrates bear the Sword, if it be not to serve God; who hath committed it to them, to defend the good and punish the bad? Can they do better

Rom. 13. 4. *Acts* 23. 17.

service

service than to preserve the Church from the violence of the wicked, and to deliver the flock of Christ, from the swords of murtherers? I would demand of them yet, whether they think that all use of Arms is forbidden to Christians? If this be their opinion, then would I know of them, wherefore Christ did grant to the Centurion his request? wherefore did he give so excellent a testimony of him? wherefore doth St. *John* Baptist command the Men at Arms to content themselves with their pay, and not to use any extortion, and doth not rather perswade them to leave their calling? Wherefore did St. *Peter* baptize *Cornelius* the Centurian, who was the first-fruits of the *Gentiles*? From whence comes it that he did not in any sort whatsoever councel him to leave his charge? Now if to bear arms and to make War be a thing lawful, can there possibly be found any War more just, than that which is taken in hand by the command of the Superiour, for the defence of the Church, and the preservation of the faithful? Is there any greater tyranny, than that which is exercis'd over the Soul? Can there be imagined a War more commendable than that which suppresseth such a Tyranny? For the last point, I would willingly know of these Men, whether it be absolutely prohibited Christians, to make War upon any occasion whatsoever? If they say, that it is forbidden them, from whence comes it then that the Men at Arms, Captains and Centurions, which had no other employment; but the managing of Arms were always received into the Church? wherefore do the antient Fathers, and Christian Historians make so horrible mention of certain Legions compos'd wholly of Christian Souldiers, and amongst others of that of *Malta*, so renowned for the victory which they obtained, and of that of *Thebes*, of the which St. *Mauritius* was General, who suffered Martyrdom together with all his Troops, for the confessing the Name of Jesus Christ? And if it be permitted to make War (as it may be they will confess) to keep the Limits and Towns of a Country, and to repulse an invading Enemy: Is it not yet a thing much more

Matt. 8. 9 13.
Luc. 3. 14.
Act. 10. 47.

more reasonable, to take Arms to preserve and defend honest Men, to suppress the wicked, and to keep and defend the limits and bounds of the Church, which is the Kingdom of Jesus Christ? If it were otherwise, to what purpose? should St. *John* have foretold, that the Whore of *Babylon*, shall be finally, ruined by the ten Kings, whom she hath bewitched? furthermore, if we hold a contrary opinion, what shall we say of the Wars of *Constantine*, against *Maxentius*, and *Licimius*, celebrated by so many publick orations, and approved by the Testimony of an infinite number of Learned Men, what opinion should we hold of the many Voyages, made by Christian Princes, against the *Turks* and *Sarazins* to Conquer the Holy Land, who had not, or at the least, ought not to have had, any other end in their designs; but to hinder the enemy from ruining the Temple of the Land, and to restore the integrity of his service into those Countries. Although then that the Church be not increased by Arms, notwithstanding it may be justly preserved by the means of Arms; I say further, that those that dye in so holy a War, are no less the Martyrs of Jesus Christ, then their brethren which were put to death for Religion; nay, they which dye in that War seem to have this inadvantage, that with a free will and knowing sufficiently hazard, into which they cast themselves, notwithstanding, do couragiously expose their lives to death and danger, whereas the other do only not refuse death, when it behoveth them to suffer. The *Turks* strive to advance their opinion by the means of Arms, and if they do subdue a Country, they presently bring in by force the impieties of *Mahomet*, who in his *Alcoran*, hath so recommended Arms, as they are not ashamed to say it is the ready way to Heaven, yet do the *Turks* constrain no man in matter of Conscience. But he which is a much greater Adversary to Christ and true Religion, with all those Kings whom he hath inchanted, oppoeth Fire and Fagots, to the light of the Gospel, tortures the word of God, compelling by wracking, and torments, as much as in him, lieth,

Apoc. 27. 26.

lieth, all men to become Idolaters, and finally is not ashamed, to advance and maintain their Faith and Law by perfidious disloyalty, and their traditions by continual Treasons. Now on the contrary, those good Princes and Magistrates, are said properly to defend themselves, which invirone and fortifie by all their means and industry the vine of Christ, already planted, to be planted in places where it hath not yet been, least the wild Boor of the Forest should spoil or devour it: They do this (I say) in covering with their Buckler, and defending with their sword, those which by the preaching of the Gospel have been converted to true Religion, and in fortifying with their best ability, by Ravelins, Ditches, and Rampers the Temple of God built with lively stones, until it have attained the full height, in despite of all the furious assaults of the enemies thereof, we have lengthened out this discourse thus far to the end, we might take away all scruple concerning this question. Set then the Estates, and all the Officers of a Kingdom, or the greatest part of them, every one establish'd in authority by the people: know, that if they contain not within his bounds (or at the least, imploy not the utmost of their endeavours thereto) a King that seeks to corrupt the Law of God, or hinders the reestablishment thereof, that they offend grievously against the Lord, with whom they have contracted Covenants upon those conditions: Those of a Town, or of a Province, making a portion of a Kingdom, let them know also, that they draw upon themselves the judgment of God, if they drive not impiety out of their Walls and Confins, if the King seek to bring it in, or if they be wanting to preserve by all means, the pure Doctrin of the Gospel, although for the defence thereof, they suffer for a time banishment, or any other misery. Finally, more private men must be all advertised, that nothing can excuse them, if they obey any in that which offends God, and that yet they have no Right nor Warrant, neither may in any sort by their private authority take Arms, if it appear not most evidently, that they have extraordinary vocation thereunto, all which our discourse will suppose we have confirmed by pregnant Testimonies drawn from holy writ.

THE

The Third QUESTION.

Whether it be lawful to reſiſt a Prince which doth oppreſs or Ruin a Publick State, and how far ſuch reſiſtance may be extended, by whom, how, and by what Right, or Law it is permitted.

FOR ſo much as we muſt here diſpute of the lawful Authority of a lawful Prince, I am confident that this Queſtion will be the leſs acceptable to Tyrants, and wicked Princes; for it is no marvel if thoſe which receive no Law, but what their own Will, and Fancy dictates unto them, be deaf unto the voyce of that Law which is grounded upon Reaſon. But I perſwade my ſelf that good Princes will willingly entertain this Diſcourſe, inſomuch as they ſufficiently know that all Magiſtrates, be they of never ſo high a Rank, are but an inanimated and ſpeaking Law, neither though any thing be preſſed home againſt the bad, can it fall within any inference againſt the good Kings, or Princes as alſo good and bad Princes are in a direct Diameter oppoſite and contrary; therefore that which ſhall be urged againſt Tyrants, is ſo far from detracting any thing from Kings, as on the contrary, the more Tyrants are laid open in their proper Colours, the more Glorious doth the true Worth, and Dignity of Kings appear; neither can the vitious imperfections of the one be laid open but it gives Addition of perfections, and reſpect to the Honour of the other. But for Tyrants let them ſay and think what they pleaſe, that ſhall be the leaſt of my Care; for it is not to them, but againſt them that I write; for Kings I believe that they will readily Conſent to that which is propounded, for by true proportion of Reaſon they ought as much to hate Tyrants and wicked Governors, as Shepherds hate Wolves, Phiſici-

ans, Impriſoners, true Prophets, falſe Doctors, for it muſt neceſſarily occur that Reaſon infuſeth into good Kings as much hatred againſt Tyrants, as Nature imprinteth in Dogs againſt Wolves, for as the one lives by Rapine and ſpoyl, ſo the other is born or bred to redreſs and prevent all ſuch Outrages. It may be the Flatterers of Tyrants will caſt a ſupercilious Aſpect on theſe Lines; but if they were not paſt all Grace they would rather bluſh for ſhame. I very well know that the Friends and faithful Servants of Kings will not only approve and lovingly entertain this Diſcourſe but alſo with their beſt Abilities defend the Contents thereof accordingly as the Reader ſhall find himſelf moved either with Content or diſlike in the reading hereof, let him know that by that he ſhall plainly diſcover either the affection, or hatred that he bears to Tyrants, let us now enter into the matter.

Kings are made by the People.

We have ſhewed before that it is God, that doth appoint Kings, which chuſeth them, which gives the Kingdom to them: now we ſay that the People eſtabliſh Kings, putteth the Scepter into their hands, and which with their Suffrages, approveth the Election. God would have it done in this manner, to the end, that the Kings ſhould acknowledge, that after God they hold their power and Soveraignty from the people, and that it might the rather induce them, to apply and Addreſs the utmoſt of their care and thoughts for the profit of the people, without being puffed with any vain imagination, that they were formed of any matter more excellent then other Men; for which they were raiſed ſo high above others: as if they were to Command our flocks of ſheep, or heards of Cattel; but let them remember and know, that they are of the ſame Mould and Condition as others, raiſed from the Earth by the voice and Acclamations, now as it were upon the ſhoulders of the people unto their Thrones, that they might afterwards bear on their own ſhoulders the greateſt burthens of the Commonwealth. Divers Ages before that the people of *Iſrael* demanded a King, God gave and appointed the Law of Royal Government contained

contained in the 17. Chapter Verſe 14. of *Deut.* when ſays *Moſes*, thou art come unto the Land which the Lord thy God giveth thee, and ſhalt poſſeſs it, and ſhalt dwell therein, and ſhalt ſay, I will ſet a King over me like as all the Nations that are about me, thou ſhalt in any wiſe ſet him whom the Lord thy God ſhall chuſe from amongſt thy Brethren, &c. You ſee here, that the Election of the King is attributed to God, the eſtabliſhment to the people: now when the practice of this Law came in uſe, ſee in what manner they proceeded. The Elders of *Iſrael* which preſented the whole Body of the people, (under this name of Elders, are comprehended the Captains, the Centurions, Commanders over fifties and tens, Judges, Provoſts; but principally the chiefeſt of Tribes) came to meet *Samul* in *Ramah*, and not being willing longer to endure the Government of the Sons of *Samuel*, whoſe ill Carriage had juſtly drawn on them the peoples diſlike, and withal perſwading themſelves that they had found the means to make their Wars hereafter with more advantage, they demanded a King of *Samuel*, who asking Councel of the Lord, he made known that he had choſen *Saul* for the Governor of his people. Then *Samuel* anointed *Saul*, and performed all thoſe Rights which belong to the Election of a King required by the people. Now this might perhaps have ſeemed ſufficient, if *Samuel* had preſented to the people the King that was choſen by God, and had admoniſhed them all to become good and obedient Subjects. Notwithſtanding to the end, that the King might know that he was eſtabliſhed by the people, *Samuel* appointed the Eſtates to meet at *Miſpah*, where being aſſembled as if the buſineſs were but then to begin, and nothing had already been done, to be brief as if the Election of *Saul* were then only to be treated of, the Lot is caſt and falls on the Tribe of *Benjamin*, after on the Family of *Matri*, and laſtly on *Saul*, born of that Family who was the ſame that God had choſen: Then by the Conſent of all the people *Saul* was declared King. Finally, that *Saul* nor any other might attribute the aforeſaid buſineſs to chance or Lot, after that *Saul* had made ſome proof of his Valour in raiſing the ſiege of the *Ammonites* in *Jabiſh Gilead*: ſome of the people preſſing

1 *Sam.* 8. 5.

1 *Sam.* 9. 16.

1 *Sam.* 20. 18. &c.

the buſineſs he was again confirmed King in a full aſſembly at *Gilgal*; ye ſee that he whom God had choſen, and the Lot had ſeparated from all the reſt, is eſtabliſhed King by the Suffrages of the People.

And for *David*, by the Commandment of God, and in a manner more evident then the former, after the rejection of *Saul*, *Samuel* anointed for King over *Iſrael*; *David* choſen by the Lord, which being done, the Spirit of the Lord preſently left *Saul*, and wrought in a ſpecial manner in *David*; But *David* notwithſtanding Raigns not, but was compelled to ſave himſelf in Deſarts and Rocks, oftentimes falling upon the very brim of deſtruction, and never Raigned as King till after the Death of *Saul*: for then by the Suffrages of all the People of *Judah*, he was firſt choſen King of *Judah*, and ſeven years after by the Conſent of all *Iſrael*, he was inaugurated King of *Iſrael* in *Hebron*. So then he is annointed firſt by the Prophet at the Commandment of God, as a Token he was choſen. Secondly by the Commandment of the People when he was eſtabliſhed King. And that to the end that Kings may always remember that it is from God; but by the People, and for the Peoples ſake that they do Raign, and that in their Glory they ſay not (as is their Cuſtom) they hold their Kingdom only of God and their Sword, but withal add that it was the People which firſt girt them with that Sword. The ſame Order offered in *Solomon*, although he was the Kings Son, God hath choſen *Solomon*, to ſit upon the Throne of his Kingdom, and by expreſs words had promiſed *David* to be with him and aſſiſt him as a Father his Son. *David* had with his own mouth deſigned *Solomon* to be Succeſſor to his Crown in the Preſence of ſome of the principal of his Court. But this was not enough and therefore *David* aſſembled at *Jeruſalem* the Princes of *Iſrael*, the heads of the Tribes the Captains of the Souldiers and Ordinance Officers of the Kings, the Centurions and other Magiſtrates of Towns together with his Sons, the noble Men and worthieſt Perſonages of the Kingdom, to conſult and reſolve upon the Election. In this Aſſembly after they had called upon the Name of God, *Solomon* by the Conſent of the whole Congregation proclaimed and anointed for King,

and

and sat (so saith the Text) upon the Throne of *Israel*; then and not before the Princes the Noblemen his Brothers themselves do him Homage, and take the Oath of Allegiance. And to the end, that it may not be said, that that was only done to avoid occasion of Difference, which might arise amongst the Brothers and Sons of *David* about the Succession, we read that the other following Kings have in the same manner been established in their Places, it is said, that after the Death of *Solomon*, the People assembled to create his Son *Rehoboam* King. After that *Amaziah* was killed, *Ozias* his only Son was chosen King by all the People, *Ochosias* after *Joram*, *Joachim*, the Son of *Josias*, after the Disease of his Father, whose piety might well seem to require that without any other Solemnity, notwithstanding both he and the other were chosen and invested into the Royal Throne, by the Suffrages of the People. To which also belongs, that which *Husai* said to *Absalom*; nay, but whom the Lord and his People, and all the Men of *Israel* chuse, his will I be, and with him will I abide; which is as much as to say, I will follow the King lawfully established, and according to the accustomed order; wherefore, although that God had promised to his People a perpetual Lamp, to wit, a King, and a continual Successor of the Line of *David*, and that the Successor of the Kings of this *People* were approved by the Word of God himself. Notwithstanding, since that we see that the Kings have not reigned, before the *People* had ordained and installed them, with requisite Ceremonies; it may be collected from this, that the Kingdom of *Israel* was not Hereditary, if we consider *David* and the promise made to him, and that it was wholly Elective, if we regard the particular *Persons*. But to what purpose is this, but to make it apparent, that the Election is only mentioned, that the *Kings* might have always in their Remembrance, that they were raised to their Dignities by the *People*, and therefore they should never forget during Life, in what a strict bound of Observance they are tied to those from whom they have received all their Greatness. We read that the *Kings* of the Heathen have been established also by the *People*; for as when they had either Troubles at Home,

2 Sam. 16. 18.

Psal 132. 11. 42.

Home, or Wars Abroad, some one, in whose ready Valor, and discreet Integrity, the *People* did principally rely and repose their greatest Confidence, him they presently with an universal Consent constituted *King*. *Cicero* saith, that amongst the *Medes*, *Diocles*, from a Judge of private Controversies, was for his Uprightness, by the whole *People* elected *King*, and in the same manner were the first *Kings* chosen amongst the *Romans*. Insomuch, that after the Death of *Romulus*, the Interraign and Government of the hundred Senators being little acceptable to the *Quirites*, it was agreed that from thence forward the *King* should be chosen by the Suffrages of the *People*, and the Approbation of the Senate. *Tarquinius Superbus* was therefore esteemed a Tyrant, because being chosen neither by the *People* nor the Senate, he intruded himself into the *Kingdom* only by Force and Usurpation: Wherefore *Julius Cæsar* long after, though he gained the Empire by the Sword, yet to the end he might add some shadow or pretence of Right to his former Intrusion, he caused himself to be declared both by the *People* and Senate perpetual Dictator. *Augustus* his adopted Son, would never take on him as Inheritor of the Empire, although he were declared so by the Testaments of *Cæsar*, but always held it as of the People and Senate. The same also did *Tiberius*, *Caligula* and *Claudius*, and the first that assumed the Empire to himself, without any colour of Right, was *Nero*, who also by the Senate was condemned. Briefly, for so much as none were ever born with Crowns on their Heads, and Scepters in their Hands, and that no Man can be a King by himself, nor reign without People; whereas on the contrary, the People may subsist of themselves, and were long before they had any Kings, it must of necessity follow, that Kings were at the first constituted by the People; and although the Sons and Dependants of such Kings inheriting their Fathers Vertues, may in a sort seem to have rendered their Kingdoms Hereditary to their Off-springs, and that in some Kingdoms and Countreys, the Right of free Election seems in a sort buried; yet notwithstanding, in all well ordered Kingdoms, this Custom is yet remaining, the Sons do not succeed the Fathers, before the People have first as it were anew established

them

them by their new Approbation; neither were they acknowledged in Quality, as inheriting it from the Dead; but approved and accounted Kings then only, when they were invested with the Kingdom, by receiving the Scepter and Diadem from the Hands of those who represent the Majesty of the People. One may see most evident Marks of this in Christian Kingdoms, which are at this day esteemed Hereditary; for the *French* King, he of *Spain* and *England*, and others, are commonly Sacred, and as it were, put into Possession of their Authority by the Peers, Lords of the Kingdom, and Officers of the Crown, which represent the Body of the People; no more nor less than the Emperors of *Germany* are chosen by the Electors, and the Kings of *Polonia*, by the Yawodes and Palatines of the Kingdom, where the Right of Election is yet in force. In like manner also, the Cities give no Royal Reception, nor Entries unto the King, but after their Inauguration, and anciently they used not to count the times of their Reign, but from the day of their Coronation, the which was strictly observed in *France*. But least the continued Course of some Successions should deceive us, we must take notice, that the Estates of the Kingdoms have often preferred the Cousin before the Son, the Younger Brother before the Elder, as in *France*, *Lowis* was preferred before his Brother *Robert*, Earl of *Eureux*; [*Annales Gillii*] in like manner *Henry* before *Robert*, Nephew to *Capet*. Nay, which is more by Authority of the People in the same Kingdom, the Crown hath been transported (the lawful Inheritors living) from one Lineage to another, as from that of *Merove* to that of the *Charlemains*, and from that of the *Charlemains*, to that of *Capets*, the which hath also been done in other Kingdoms, as the best Historians testifie. But not to wander from *France*, the long Continuance and Power of which Kingdom may in some sort plead for a ruling Authority, and where Succession seems to have obtained most reputation. We read that *Pharamond* was chosen in the Year 419. *Pepin* in the Year 751. *Charles* the Great, and *Charleman* the Son of *Pepin* in the Year 768. without having any respect to their Fathers former Estate. *Charleman* dying in the Year 772. his Portion fell not presently into the

Possession

Poſſeſſion of his Brother *Charles* the Great, as it ordinarily happens in the Succeſſion of Inheritances, but by the Ordinance of the People and the Eſtates of the Kingdom he is inveſted with it; the ſame Author witneſſeth, that in the Year 812. *Lewis* the Courteous, although he were the Son of *Charles* the Great was alſo elected; and in the Teſtament of *Charlemain*, inſerted into the Hiſtory written by *Nauclere*, *Charlemain* doth intreat the People to chuſe, by a General Aſſembly of the Eſtates of the Kingdom, which of his Grand-children or Nephews the People pleaſed, and commanding the Uncles to obſerve and obey the Ordinance of the People, by means whereof, *Charles* the Bald, Nephew to *Lewis* the Courteous and *Judith*, doth declare himſelf to be choſen King, as *Aimonius* the *French* Hiſtorian recites.

To conclude in a Word, all Kings at the firſt were altogether elected, and thoſe which at this day ſeem to have their Crowns and Royal Authority by Inheritance, have or ſhould have firſt and principally their Confirmation from the People. Briefly, although the People of ſome Countries have been accuſtomed to chuſe their Kings of ſuch a Lineage, which for ſome notable Merits have worthily deſerved it; yet we muſt believe that they chuſe the Stock it ſelf, and not every Branch that proceeds from it; neither are they ſo tied to that Election, as if the Succeſſor degenerate, they may not chuſe another more worthy, neither thoſe which come and are the next of that Stock, are born Kings, but created ſuch, nor called Kings, but Princes of the Blood Royal.

The whole Body of the People is above the King.

Now ſeeing that the People chuſe and eſtabliſh their Kings, it followeth that the whole Body of the People is above the King; for it is a thing moſt evident, that he which is eſtabliſhed by another, is accounted under him that hath eſtabliſhed him, and he which receives his Authority from another, is leſs than he from whom he derives his Power. *Potiphar* the *Ægyptian* ſetteth *Joſeph* over all his Houſe, *Nebuchadnezzar Daniel* over the Province of *Babylon*, *Darius* the ſixſcore

sixscore Governors over the Kingdom. It is commonly said that Masters establish their Servants, Kings their Officers: In like manner also the People establish the King as Administrator of the *Common-wealth*. Good Kings have not disdained this Title; yea, the bad ones themselves have affected it; insomuch, as for the space of divers Ages, no *Roman* Emperor (if it were not some absolute Tyrant, as *Nero*, *Domitian*, *Caligula*) would suffer himself to be called Lord. Furthermore, it must necessarily be, that Kings were instituted for the Peoples Sake, neither can it be, *that for the Pleasure of some hundreds of men, and without doubt more foolish and worse than many of the other, all the rest were made, but much rather that these hundred were made for the Use and Service of all the other, and reason requires that he be preferred above the other, who was made only to and for his Occasion*: so it is, that for the Ships Sail, the Owner appoints a Pilot over her, who sits at the Helm, and looks that she keeps her Course, nor run not upon any dangerous Shelf; the Pilot doing his Duty, is obeyed by the Marriners; yea, and of himself that is Owner of the Vessel, notwithstanding the Pilot is a Servant as well as the least in the Ship, from whom he only differs in this, that he serves in a better place than they do. In a Common-wealth, commonly compared to a Ship, the King holds the Place of Pilot, the People in general are Owners of the Vessel, obeying the Pilot, whilst he is careful of the publick Good; as though this Pilot neither is nor ought to be esteemed other than Servant to the Publick; as a Judge or General in War differs little from other Officers, but that he is bound to bear greater Burdens, and expose himself to more Dangers. By the same reason also which the King gains by acquist of Arms, be it that he possesseth himself of Frontier places in warring on the Enemy, or that which he gets by Escheats or Confiscations, he gets it to the *Kingdom*, and not to himself, to wit, to the *People*, of whom the *Kingdom* is composed; no more nor less than the Servant doth for his Master; neither may one contract or oblige themselves to him, but by and with reference to the Authority derived from the *People*. Furthermore, there is an infinite sort of *People*

which live without a *King*, but we cannot imagine a *King* without *People*. And those which have been raised to the Royal Dignity, were not advanced because they excelled other Men in Beauty and Comelineſs, nor in some Excellency of Nature to govern them as Shepherds do their Flocks, but rather being made out of the same Mass with the rest of the People, they should acknowledge that for them, they as it were borrow their Power and Authority. The ancient Custom of the *French* represents that exceeding well, for they used to lift up on a Buckler, and salute him King whom they had chosen. And wherefore is it said, *I pray you, that Kings have an infinite number of Eyes, a million of Ears, with extream long Hands, and Feet exceeding Swift?* Is it because they are like to *Argos*, *Gerion*, *Midas*, and divers others so celebrated by the Poets; No truly, but it is said in regard of all the People, whom the business principally concerns, who lend to the King for the good of the Common-wealth, their Eys, their Ears, their Means, their Faculties. Let the *People* forsake the King, he presently falls to the Ground, although before his Hearing and Sight seemed most excellent, and that he was strong and in the best Disposition that might be; yea, that he seemed to triumph in all magnificence, yet in an instant he will become most vile and contemptible, to be brief, instead of those Divine Honours wherewith all men adore him, he shall be compelled to become a Pedant, and whip Children in the School at *Corinth*. Take away but the Basis to this Giant, and like the Rhodian Coloss, he presently tumbles on the ground and falls into pieces. Seeing then that the King is established in this degree by the *People*, and for their Sake, and that he cannot subsist without them, who can think it strange then for us to conclude, that the *People* are above the King? Now that which we speak of all the *People* universally, ought also to be understood, as hath been delivered in the second Question, of those which in every Kingdom or Town do lawfully represent the Body of the *People*, and which ordinarily (or at least should be) called the Officers of the Kingdom, or of the Crown, and not of the King; for the Officers of the King, it is he which placeth and displaceth them,

them at his pleasure, yea, after his Death they have no more power, and are accounted as dead. On the contrary, the Officers of the Kingdom *receive their Authority from the People in the general Assembly of the States (or at the least were accustomed so anciently to have done) and cannot be disauthorised but by them, so then the one depends of the King, the other of the Kingdom, those of the Soveraign Officer of the Kingdom, which is the King himself, those of the Soveraignty it self, that is of the People, of which Soveraignty, both the King and all his Officers of the Kingdom ought to depend, the Charge of the one hath proper relation to the Care of the Kings Person; that of the other, to look that the Common-wealth receive no Damage; the first ought to serve and assist the King, as all Domestick Servants are bound to do to their Masters; the other to preserve the Rights and Priviledges of the People, and to carefully hinder the Prince, that he neither omit the things that may advantage the State, nor commit any thing that may endammage the Publick.*

Briefly, the one are Servants and Domesticks of the Kings, and received into their places to obey his Person; the other, on the contrary, are as Associates to the King, in the Administration of Justice, participating of the Royal Power and Authority, being bound to the utmost of their power, to be assisting in the managing of the Affairs of State, as well as the King, who is as it were President amongst them, and Principal only in order and degree.

Therefore, as all the whole People is above the King, and likewise taken in one entire Body, are in Authority before him; yet being considered one by one, they are all of them under the King. It is easie to know how far the Power of the first Kings extended, in that *Ephron*, King of the *Hittites*, could not grant *Abraham* the Sepulchre, but in the Presence, and with the Consent of the *People*: neither could *Hemor* the *Hevite*, King of *Sichem*, contract an Alliance with *Jacob* without the *Peoples* Assent and Confirmation thereof; because it was then the Custom to refer the most important Affairs to be dispensed and resolved in the General Assemblies of the *People*. This might easily be practised in those King- Gen. 34.

 doms,

doms, which were then almoſt confined within the Circuit of one Town.

But ſince that Kings began to extend their limits, and that it was impoſſible for the People to aſſemble together all into one place becauſe of their great numbers, which would have occaſioned confuſion, the Officers of the Kingdom were eſtabliſhed, which ſhould ordinarily preſerve the rights of the People, in ſuch ſort notwithſtanding, as when extraordinary occaſion required, the People might be aſſembled, or at the leaſt ſuch an abridgment as might by the principalleſt Members be a Repreſentation of the whole Body. We ſee this order eſtabliſhed in the Kingdom of *Iſrael*, which (in the judgment of the wiſeſt Politicians) was excellently ordered. The King had his Cupbearers, his Carvers, his Chamberlains and Stewards. The Kingdom had her Officers, *to wit*, the 71. Elders, and the Heads and chief choſen out of all the Tribes, which had the care of the Publick Faith in Peace and War.

Furthermore, the Kingdom had in every Town Magiſtrates, which had the particular government of them, as the former were for the whole Kingdom. At ſuch times as affairs of conſequence were to be treated of, they aſſembled together, but nothing that concerned the publick ſtate could receive any ſolid determination. *David* aſſembled the Officers of his Kingdom when he deſired to inveſt his Son *Solomon* with the Royal Dignity; when he would have examined and approved that manner of policy, and managing of affairs, that he had revived and reſtored, and when there was no queſtion of removing the Ark of the Covenant.

1 Chron. 29. 1.
1 Chron. 13. 1.

And becauſe they repreſented the whole people, it is ſaid in the Hiſtory, that all the people aſſembled. Theſe were the ſame Officers that delivered *Jonathan* from death, Condemned by the ſentence of the King, by which it appears, that there might be an Appeal from the King to the People.

1 Sam. 14. 45.

After that the Kingdom was divided through the pride of *Rehoboam* the Councel at *Jeruſalem* compoſed of 71. Ancients ſeems to have ſuch Authority, that they might judge the King

King, as well as the King might judge every one of them in particular.

In this Council was Prefident the Duke of the Houfe of *Juda*, to wit, fome principal man chofen out of that Tribe; as alfo, in the City of *Jeruſalem* there was a Governor chofen out of the Tribe of *Benjamin* refiding there. This will appear more manifeſt by Examples, *Jeremy* was ſent by God to denounce to the *Jews* the Deſtruction of *Jeruſalem*, was therefore Condemned firſt by the Prieſts and Prophets, in whoſe hands was the Eccleſiaſtical Juriſdiction afterwards by all the people of the City; that is, by the ordinary Judges of *Jeruſalem*, to wit the Milleniers, and the Centurions: Finally, the matter being brought before the Princes of *Juda*, who were the 71. Elders aſſembled, and ſet near to the new Gate of the Temple, he was by them acquitted. 2 Chron. 19. Neh. 11. 9. Jer. 16. 9. 17.

In this very Aſſembly, they did diſcreetly Condemn, in expreſs terms, the wicked and cruel act of the King *Jehoiakin*, who a little before had cauſed the Prophet *Uriah* to be ſlain, who alſo fore-told the Deſtruction of *Jeruſalem*.

We read in another place, that *Zedechias* held in ſuch reverence the Authority of this Councel, that he was ſo far from delivering of *Jeremy* from the Dungeon, whereinto the 71. had caſt him, that he durſt ſcarce remove him into a leſs rigorous priſon. They perſwading him to give his conſent to the putting to death the Prophet *Jeremy*, he anſwered, that he was in their hands, and that he might not oppoſe them in any thing. The ſame King fearing leaſt they might make information againſt him, to bring him to an account for certain Speeches, he had uſed to the Prophet *Jeremy*, was glad to feign an untrue excuſe. It appears by this, that in the Kingdom of *Juda* this Council was above the King, in this Kingdom, I ſay not faſhioned or eſtabliſhed by *Plato* or *Ariſtotle*, but by the Lord God, himſelf being Author of all their order, and ſupream Moderator in that Monarchy. Such were the ſeven *Magi* or *Sages* in the *Perſian* Empire, who had almoſt a parallell'd Dignity with the King, and were termed the Ears and Eyes of the King, who alſo never diſſented from the judgment of thoſe Sages. Jer. 37. 38.

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In the Kingdom of *Sparta* there was the *Ephori*, to whom an Appeal lay from the judgment of the King, and who, as *Aristotle* says, had Authority also to judge the Kings themselves.

In *Egypt* the *People* were accustomed to chuse and give Officers to the King, to the end they might hinder and prevent any incroachment, or usurpt Authority, contrary to the Laws. Now as *Aristotle* doth ordinarily term those lawful Kings, which have for their Assistants such Officers or Counsellors: so also maketh he no difficulty to say, that where they be wanting, there can be no true Monarchy, but rather a Tyranny absolutely barbarous, or at the least such a Dominion, as doth most nearly approach tyranny.

Arist. in pol. l. 5. c. 11.

In the *Roman* Common-wealth, such were the Senators, and the Magistrates created by the people the tribune of those which were called *Celeres*, the Preter or Provost of the City, and others, insomuch as there lay an Appeal from the King to the People, as *Seneca* declares by divers Testimonies drawn from *Cicero*'s Books of the Common-wealth, and the History of *Oratius* sufficiently shews, who being Condemned by the Judges for killing his Sister, was acquitted by the people.

In the times of the Emperours, there was the Senate, the Consults, the Pretors, the great Provosts of the Empire, the Governors of Provinces, attributed to the Senate and the People, all which were called the Magistrates and Officers of the people of *Rome*. And therefore, when that by the Decree of the Senate, the Emperor *Maximinus* was declared Enemy of the Common-wealth, and that *Maximus* and *Albinus* were created Emperours by the Senate, the men of war were sworn to be faithful ond obedient to the people of *Rome*, the Senate, and the Emperors. Now for the Empires and publick States of these times (except those of *Turkey*, *Muscovy*, and such like, which are rather a Rapsody of Robbers, and Barbarous Intruders, than any lawful Empires) there is not one, which is not, or hath not heretofore been governed in the manner we have described. And if through the conveniency and sloath of the principal Officers, the Successors have found the business in a worse condition, those which have

Herodi. l. 8.

for

for the preſent the publick Authority in their hands, are notwithſtanding bound as much as in them lieth to reduce things into their primary eſtate and condition.

In the Empire of *Germany* which is conferred by Election, there is the Electors and the Princes, both Secular, and Eccleſiaſtical, the Counts, Barons, and Deputies of the Imperial Cities, and as all theſe in their proper places are Solicitors for the publick good likewiſe in the Diets do they repreſent the Majeſty of the Empire, being obliged to adviſe, and carefully fore-ſee, that neither by the Emperors partiality, hate nor affection, the publick State do ſuffer or be intereſſed. And for this reaſon, the Empire hath its Chancellor, as well as the Emperor his, both the one and the other have their peculiar Officers and Treaſurers apart. And it is a thing ſo notorious, that the Empire is preferred before the Emperour, that it is a common ſaying, *That Emperor does homage to the Empire.*

In like manner, in the Kingdom of *Polonia*, there is for Officers of the Crown, the Biſhops, the Palatins, the Caſtellains, the Nobility, the Deputies of Towns, and Provinces aſſembled extraordinarily, before whom, and with whoſe conſent, and no where elſe, they make new Laws, and Determinations concerning Wars. For the ordinary Government there, is the Councellors of the Kingdom, the Chancellor of the State, *&c.* although notwithſtanding, the King have his Stewards, Chamberlains, Servants, and Domeſticks. Now if any Man ſhould demand in *Polonia* who were the greater, the King, or all the people of the Kingdom repreſented by the Lords and Magiſtrates, he ſhould do as much, as if he asked at *Venice*, if the Duke were above the Seigniory. But what ſhall we ſay of Kingdoms, which are ſaid to go by Hereditary Succeſſion? We may indeed conclude the very ſame, The Kingdom of *France* heretofore preferred before all other, both in regard of the excellency of their Laws and Majeſty of their Eſtate, may paſs with moſt as a ruling caſe. Now although that thoſe which have the publick Commands in their hands, do not diſcharge their Duties as were to be deſired, it follows not though, that they are not bound to do it. The King hath his High Steward of his Houſhold, his Chamberlains,

Speculum ſaxonicum.

Aimonius. l. 5. c. 26. in Carolo calvo.

berlains, his Masters of his Games, Cup-bearers, and others, whose Offices were wont so to depend on the person of the King, that after the death of their Master, their offices were void. And indeed at the Funeral of the King, the Lord High Steward in the presence of all the Officers and Servants of the Houshold, breaks his Staff of Office, and says, *Our Master is dead let every one provide for himself.* On the other side, the Kingdom hath her Officers, to wit, the Mayor of the Palace, which since hath been called the Constable, the Marshals, the Admiral, the Chancellor, or great Referendary, the Secretaries, the Treasurers and others, which heretofore were created in the Assembly of the three Estates, the Clergy, the Nobility, and the People.

Since that, the Parliament of *Paris* was made Sedentary, they are not thought to be established in their places, before they have been first received and approved by that course of Parliament, and may not be dismissed nor deposed, but by the Authority and consent of the same. Now all these Officers take their Oath to the Kingdom, which is as much as to say, to the people in the first place, then to the King which is Protector of the Kingdom, the which appears by the Tenor of the Oath. Above all, the Constable who receiving the Sword from the King, hath it girded unto him with this Charge, *That he maintain and defend the Common-wealth*, as appears by the words that the King then pronounceth:

S. Filius fam. instit. quib. mod. jus patriæ pot. solvitur.

Besides, the Kingdom of *France* hath the Peers (so called either for that they are the Kings Companions, or because they are the Fathers of the Common-wealth) taking their Denominations from the several Provinces of the Kingdom, in whose hands the King at his Inauguration takes his Oath, as if all the people of the Kingdom were in them present, which shews, that these twelve Peers are above the King. They on the other side swear, *That they will preserve not the King, but the Crown, that they will assist the Common-wealth with their Council, and therefore will be present with their best Abilities to counsel the Prince both in Peace and War*, as appears plainly in the *Patentee* of their Peership.

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And they therefore have the same right as the Peers of the Court, which according to the Law of the *Lumbards*, were not only associates to the Lord of the Fee in the judgment of causes, but also did take an account, and judge the differences that happened between the Lord and his Vassals. *Renatus chipinus lib.* 3.

We may also know, that those Peers of *France* did often discuss suits and differneces between the King and his Subjects: Insomuch that when *Charles* the Sixth would have given sentence against the Duke of *Brittain* they opposed it, alleading that the discussing of that business belonged properly to the Peers and not to the King, who might not in any sort derogate from their authority

Therefore it is, that yet at this day the Parliament of *Paris* is called the Court of Peers, being in some sort constituted Judge between the King and the People; yea, between the King and every private Person, and is bound and ought to maintain the meanest in the Kingdom against the Kings Attorney, if he undertake any thing contrary to Law.

Furthermore, if the King ordain any thing in his Council, if he treat any agreement with the Princes his Neighbours, if he begin a War, or make peace, as lately with *Charles* the Fifth the Emperour, the Parliament ought to interpose their authority, and all that which concerns the publick State must be therein registred; neither is there any thing firm and stable which the Parliament doth not first approve. And to the end, that the Councellours of that Parliament should not fear the King, formerly they attained not to that place, but by the nomination of the whole body of the Court; neither could they be dismissed for any lawful cause, but by the authority of the said Body.

Furthermore, if the Letters of the *King* be not subsigned by a Secretary of the *Kingdom*, at this day called a Secretary of State, and if the *Letters Patents* be not sealed by the Chancellour, who hath power also to cancel them, they are of no force or value. There is also Dukes, Marquesses, Earls, Vicounts, Barons, Senoschals, and in the Cities, and good Towns Mayors, Bayliffs, Lieutenants, Capitols, Consuls, Sindiques, Sheriffs and others which have special Authority through the Circuit of some Countries or Towns to preserve the people of their jurisdiction. Time it is, that at this day some of these Dignities are become hereditary. Thus much concerning the ordinary Magistrates.

Besides all this, anciently every year, and since less often, *to wit*, when some urgent necessity required it, the general or three Estates were assembled, where all the Provinces and Towns of any worth, *to wit*, the Burgesses, Nobles and Ecclesiastical persons, did all of them send their Deputies, and there they did publickly deliberate and conclude of that which concerned the publick state. Always the Authority of this Assembly was such that what was there determined, whether it were to treat Peace, or make War, or create a Regent in the *Kingdom*, or impose some new Tribute, it was ever held firm and inviolable; nay, which is more by the authority of this Assembly, the *Kings* convinced of loose intemporancy, or of insufficiency, for so great a charge or Tyranny, were disthronized; yea, their whole Races were for ever excluded from their succession to the *Kingdom*, no more, nor less, as their Progenitors were by the same authority formerly call'd to the administration of the same *Kingdom*. Those whom the consent and approbation of the Estates had formerly raised, were by the dissent and disallowing of the same afterwards cast down. Those which tracing in the vertuous steps of their Ancestors, were called to that dignity, as if it had been their inheritance, were driven out, and disinherited for their degenerate ingratitude, and for that being tainted with insupportable vices, they made themselves uncapable and unworthy of such honour.

This shews, that Succession was tollerated to avoid practises, close and under-hand canvasing, discontents of persons refused, contentions, interraigns, and other discommodities of Elections. But on the other part, when Successions brought other mischiefs more pernicious, when tyranny trampled on the *Kingdom*, and when a Tyrant possessed himself of the Royal Throne, the Medicine proving much worse then the Disease: then the Estates of the *Kingdom* lawfully assembled in the name of all the people, have ever maintained their Authority, whether it were to drive out a Tyrant, or other unworthy *King*, or to establish a good one in his place. The ancient *French* had learned that of the *Gauls*, as *Cæsar* shews in his Commentaries. For *Ambiorix* King of the *Eburons*, or *Leigeons* confesseth, *That such were the condition of the Gaulish Empire, that People lawfully assembled, had no less power over the King, then the King had over the People.* The which appears also in *Vircingentorix*,

Cæs. l. 5. & 7. de bello Gallico.

torix, who gives an account of his actions before the Assembly of the People.

In the Kingdoms of *Spain*, especially *Aragon*, *Valentia*, and *Catalonia*, there is the very same. For that which is called the *Justitia Major* in *Aragon* hath the Soveraign Authority in it self. And therefore, the Lords which represent the People proceed so far, that both at the inaugaration of the King, as also at the Assembly of the Estates, which is observed every third year, to say to the King in expres words that which follows, *We which are as much worth as you, and have more Power then you, chuse you King upon these and these conditions, and there is one between you and us which commands over you*, to wit, *the* Justitia Major *of* Aragon, *which often times refuseth that which the King demands, and forbids that which the King injoyns.*

In the Kingdoms of *England* and *Scotland* the Soveraignty seems to be in the *Parliament*, which heretofore was held almost every year. They call Parliaments the Assembly of the Estates of the Kingdom, in the which the Bishops, Earls, Barons, Deputies of Towns and Provinces deliver their opinions, and resolve with a joynt consent of the Affairs of State, the authority of this Assembly hath been so sacred and inviolable, that the King durst not abrogate or alter that which had been there once decreed.

It was that which heretofore called and installed in their charges all the chief Officers of the Kingdom; yea, and sometimes the ordinary Councellors of that which they call the Kings Privy Councils. In some, the other Christian Kingdoms, as *Hungary*, *Bohemia*, *Denmark*, *Sweden*, and the rest, they have their Officers apart from the Kings; and Histories, together with the examples that we have in these our times, sufficiently demonstrate that these Officers and Estates have known how to make use of their Authority, even to the deposing and driving out of the tyrannous and unworthy Kings.

We must not therefore esteem that this cuts too short the wings of Royal Authority, and that it is as much as to take the Kings head from his shoulders.

We believe that God is Almighty, neither think we it any thing diminisheth his power, because he cannot sin: neither say we, *that his Empire is less to be esteemed, because it cannot be neither shaken, nor cast down*: neither also must we judge a King to be too much abused, if he be with-held by others from falling into an error, to which he is over much

inclined, or for that by the wisdom and discretion of some of his Councellors, his Kingdom is preserved and kept intire and safe, which otherwise, happily by his weakness or wickedness might have been ruined. Will you say that a Man is less healthful, because he is invironed with discreet Physicians, which counsel him to avoid all intemperance, and forbid him to eat such Meats as are obnoxious to the Stomach, and which purge him many times against his will and when he resists? which will prove his better friends, whether these Physitians which are studiously careful of his health, or those Sicophants which are ready at every turn to give him that which must of necessity hasten his end? We must then always observe this distinction. The first are the friends of the *King*. The other are the friends of *Francis* which is *King*. The friends of *Francis* are those which serve him: The friends of the *King* are the Officers and Servants of the Kingdom. For seeing the King hath this name, because of the Kingdom, and that it is the People which give being and consistence to the Kingdom, the which being lost or ruined, he must needs cease to be a *King*, or at the least not so truly a *King*, or else we must take a shadow for a substance.

Without question, those are most truly the *Kings* friends, which are most industriously careful of the welfare of his Kingdom, and those his worst Enemies which neglect the good of the Common-wealth, and seek to draw the *King* into the same lapse of Error.

And as it is impossible to separate the Kingdom from the People, nor the King from the Kingdom, in like manner, neither can the friends of the King be disjoyned from the friends of the People, and the Kingdom.

I say further, that those which with a true affection love *Francis*, had rather see him a King than a Subject. Now seeing they cannot see him a King, it necessarily follows, that in loving *Francis*, they must also love the Kingdom.

But those which would be esteemed more the friends of *Francis*, then of the Kingdom and the People, are truly flatterers, and the most pernicious Enemies of the King and publick State.

Now if they were true friends indeed, they would desire and endeavour that the King might become more powerful, and more assured in his Estate according to that notable saying of *Theopompus* King of *Sparta*, after the Ephores or Controllers of the Kings were instituted, *He more (said he) are appointed by the People to watch over, and look to the affairs*

Affairs of the Kingdoms, the more those that govern shall have Credit, and the more safe and happy shall be the State.

Whether prescription of time can take away the Right of the People?

But peradventure, some one will reply, you speak to us here of Peers, of Lords and Officers of the Crown. But I for my part see not any, but only some shews and shadows of Antiquity as if they were to be represented on a Stage I see not for the present scarce any Tract of that ancient Liberty, and Authority; nay, which is worse a great part, if not all, of those Officers take care of nothing but their particular Affairs, and almost, if not altogether, serve as Flatterers about those Kings who joyntly toss the poor people like Tennice-balls: hardly is there one to be found that hath Compassion on, or will lend a helping hand to the miserable Subjects, flea'd and scorched to the very bones, by their insolent and insupportable Oppression: If any be but thought to have such a desire, they are presently condemned as Rebels and Seditious, and are constrained either to fly with much discommodity, or else must run hazard both of Life and Liberty. What can be answered to this? the business goes thus. The Outragiousness of Kings, the ignorance of the party, together with the wicked connivence of the great ones of the Kingdom, hath been for the most part such throughout the World, that the Licentious and unbridled Power wherewith most Kings are transported and which hath made them insupportable, hath in a manner by the length of Continuance gained right of Prescription, and the People for want of using it hath intacitely quit, if not altogether lost, their just and ancient Authority. So that it ordinarily happens that what all Mens care ought to attend on, is for the most part neglected by every Man; for what is committed to the generality, no Man thinks is commended to his Custody. Notwithstanding, no such Prescription, nor prevarication can justly prejudice the Right of the People: It is commonly said that the Exchequers do admit no rule of Prescription against it, much less against the whole Body of the people, whose power transcends the Kings, and in whose Right the King assumes to himself that priviledge; for otherwise, wherefore is the Prince only Administrator, and the people true Proprietor of the publick Exchequer, as we will prove here presently after. Furthermore, it is not a thing resolved on by all, that no Tyrannous Intrusion or Usurpation, and continuance in the same Course, can by any length of time prescribe against lawful Liberty. If it be objected, that Kings were enthronized, and received their Authority from the people that lived

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five hundred years ago, and not by those now living, I answer that the Commonwealth never dies, although Kings be taken out of this Life one after another: for as the continual running of the water gives the River a perpetual Being: so the Alternative revolution of Birth and death renders the People (*quoad hunc mundum*) immortal.

And further, as we have at this day the same *Siene* and *Tiber* as was 1000 years ago: in like manner also is there the same People of *Germany*, *France*, and *Italy* (excepting intermixing of Colonies, or such like) neither can the lapse of time, nor changing of individuals, alter in any sort the right of those People. Furthermore, if they say the King receives his Kingdom from his Father, and not from the People, and he from his Grandfather, and so one from another upward.

Ulpan de reg. juris l. 54.

I ask, could the Grandfather or Ancestor, transfer a greater right to his Successor, then he had himself? If he could not (as without doubt it must need be so) is it not plainly perspicuous, that what the Successor further Arrogates to himself, he may usurp with as safe a Conscience, as what a Thief gets by the High-way side. The People on the contrary have their Right of eviction intire and whole; although that the Officers of the Crown have for a time lost or left their Ranks, this cannot in any true Right prejudice the People, but rather clear otherwise; as one would not grant Audience, or shew favour to a Slave which had long time held his Master Prisoner, and did not only vaunt himself to be free, but also presumptuously assumed power over the life and death of his Master: neither would any Man allow the excuses of a Thief, because he had continued in that Trade 30. years, or for that he had been bred in that course of life by his Father, if he presumed by his long continuance in that Function to prescribe for the lawfulness, but rather the longer he had continued in his wickedness, the more grievous should be his punishment: in like manner, the Prince is altogether unsupportable which because he succeeds a Tyrant, or hath kept the people (by whose Suffrages he holds the Crown) in a long slavery, or hath suppressed the Officers of the Kingdom (who should be Protectors of the publick Liberty) that therefore presumes, that what he affects is lawful for him to effect, and that his Will is not to be restrained or corrected by any positive Law whatsoever. For prescription in Tyranny detracts nothing from the Right of the people; nay, it rather much aggravates the Princes Outrages. But what if the Peers and principal Officers of the Kingdom makes themselves parts with the King? What if betraying the publick, cause the Yoke of Tyranny upon the peoples Neck? shall it follow, that by this prevarication and Treason the Autho-

rity

rity is devolved into the King? Does this detract any thing from the Right of the peoples Liberty, or does it add any licentious power to the King? Let the people thank themselves, say you, who relyed on the disloyal Loyalty of such men.

But I Answer, that these Officers are indeed those Protectors whose principal Care and study should be, *that the People be maintained in the free and absolute Fruition of their Goods and Liberty.* And therefore, in the same manner as if a treacherous Advocate for a sum of Money should agree to betray the Cause of his Client, into the hands of his Adversary, which he ought to have defended, hath not power for all that to alter the course of Justice, nor of a bad Cause to make a good one, although perhaps for a time he give some Colour of it.

In like manner this Conspiracy of the great ones combined to ruin the Inferiors cannot disanul the Right of the people; in the mean Season, those great ones incur the punishment that the same alots against Prevaricators, and for the people, the same Law allows them to chuse another Advocate, and afresh to pursue their Cause, as if it were then only to begin.

For if the people of *Rome* condemned their Captains and Generals of their Armies, because they capitulated with their Enemies to their disadvantage (although they were drawn to it by necessity, being on the point to be all overthrown) and would not be bound to perform the Soldiers Capitulation: much less shall a Free people be tyed to bear the Yoke of Thraldom, which is cast on them by those who should and might have prevented it; but being neither forced nor compelled did for their own particular Gain willingly betray those that had committed their Liberty to their Custody.

Wherefore Kings were created?

Now seeing that Kings have been ever established by the people, and that they have had Associates joyned with them, to contain them within the limits of their Duties, the which Associates considered in particular one by one, are under the King, and altogether in one intire Body are above him. We must consequently see wherefore first Kings were established, and what is principally their Duty. We usually esteem a thing just and good when it attains to the proper end for which it is ordained.

In the first place every one Consents, *That men by Nature loving Liberty, and hating servitude, born rather to Command, then obey, have not willingly admitted to be governed by another, and renounced as it were the Priviledge of Nature, by submitting themselves to the Commands of others:*

but

but for some special and great profit that they expected from it. For as *Esope* says, That the Horse being before accustomed to wander at his pleasure, would never have received the Bit into his mouth, nor the Rider on his back, but that he hoped by that means to overmatch the Bull: neither let us imagine, that Kings were chosen to apply to their own proper use, the Goods that are gotten by the sweat of their Subjects; for every Man loves and cherisheth his own. They have not received the power and Authority of the people to make it serve as a Pander to their pleasures: for ordinarily, the inferiors hate, or at least Envy their Superiors.

Let us then conclude, that they are established in this place to maintain by Justice, and to defend by force of Arms, both the publick State, and particular persons from all Damages, and Outrages, wherefore Saint *Augustine* saith, *Those are properly called Lords and Masters which provide for the Good and Profit of others, as the Husband for the Wife, Fathers for their Children.* They must therefore obey them that provide for them; although indeed to speak truly, those which govern in this manner, may in a sort be said to serve those, whom they command over.

Aug. lib. 16. de civit. dei, c. 15.

For, as says the same Doctor, they command not for the desire of Dominion, but for the Duty they owe to provide for the good of those that are subjected to them: not affecting any Lord like Domineering, but with Charity and singular affection, desiring the Welfare of those that are committed to them.

Seneca in 81. Epistle says, That in the Golden Age, wise Men only governed Kingdoms, they kept themselves within the bounds of Moderation, and preserved the meanest from the oppression of the greatest. They perswaded and disswaded, according as it advantaged or disadvantaged, the publick profit; by their Wisdom, they furnished the publick with plenty of all necessaries, and by their discretion prevented scarcity, by their Valour and Courage they expelled Dangers, by their many benefits they encreased and inriched their Subjects, they pleaded not their Duty, in making pompous shews, but in well-governing their people. No man made Tryal what he was able to do against them, because every one received what he was capable of from them, &c.

Therefore then to govern is nothing else but to provide for: These proper ends of commanding, being for the peoples Commodity; the only Duty of Kings and Emperors is to provide for the peoples Good. The Kingly Dignity to speak properly is not a Title of Honour, but a weighty

weighty and burdenſome Office: It is not a diſcharge or vacation from affairs, to run a licentious courſe of liberty, but a charge and vocation to all enduſtrious Employments, for the ſervice of the Commonwealth; the which hath ſome glimpſe of honour with it, becauſe in thoſe firſt and Golden Ages, no man would have taſted of ſuch continual troubles, if they had not been ſweetned with ſome reliſh of honour; inſomuch, as there was nothing more true, then that which was commonly ſaid in thoſe times, If every man knew with what turmoyles and troubles the Royal Wreath was wrapt withal, no man would vouchſafe to take it up, although it lay at his feet.

When therefore that theſe Words of mine and thine entred into the World, and that differences fell amongſt fellow-Citizens, touching the propriety of Goods, and Wars amongſt Neighbouring People about the right of their Confines, the People bethought themſelves to have recourſe to ſome one, who both could and ſhould take order that the Poor were not oppreſſed by the Rich, nor the Patriots wronged by ſtrangers. *Meum & tuum*

Nor as Wars and Suits encreaſed, they choſe ſome one, in whoſe Wiſdom and Valour they repoſed moſt confidence. See then wherefore Kings were created in the firſt Ages; to wit, to Adminiſter Juſtice at home, and to be Leaders in the Wars abroad, and not only to repulſe the incurſions of the Enemy, but alſo to repreſs and hinder the devaſtation and ſpoyling of the Subjects and their good at home; but above all, to expel and drive away all devices and debauchments far from their Dominions.

This may be proved by all Hiſtories, both Divine and Prophane. For the People of God, they had at firſt no other King but God himſelf, who dwelt in the middeſt of them, and gave anſwer from between the Cherubims, appointed extraordinary Judges and Captains for the Wars; by means whereof the People thought they had no need of Lieutenants, being honoured by the continual preſence of their Soveraign King.

Now when the People of God began to be a weary of the injuſtice of the Sons of *Samuel*, on whoſe old age they durſt no longer rely, they demanded a King after the manner of other People, ſaying to *Samuel*, *Give us a King as other People have, that he may judge us*. There is touched the firſt and principal point of the Duty of a King, a little after they are both mentioned. *We will have* (ſaid they) *a King over us like other Nations. Our King ſhall judge us, and go in and out before us, & lead our Armies.* To do Juſtice is always ſet in the firſt place, for ſo much as it is an ordinary and perpetual thing; but Wars are extraordinary, and happen as it were caſually. 1 *Sam.* 8. 5. & 20.

Arist. de pol. l. 3. c. 11. Wherefore, *Aristotle* says, That in the time of *Herold*, all Kings were Judges and Captains. For the *Lacedemonian* Kings, they in his time also had Soveraign Authority only in the Army, and that confined also to the Commandments of the *Ephores*.

Herod. l. 1. In like manner the *Medes*, who were ever in perpetual Quarrels amongst themselves, at the length chose *Deoices* for the Judge, who had carried himself well in the deciding of some particular differences; presently after they made him King, and gave him Officers and Guards, that he might more easily suppress the powerful and insolent.

Cicero saith, that Anciently all Kings were established to Administer Justice, and that their Institution, and that of the Laws, had one and the same end, which was, that Equity and Right might be duly rendered to all men; the which may be verified by the propriety of the words almost in all Languages. Kings are called by the Latins, *Reges a regendo*, for that they must rule and govern the limits and bounds, both of the publick and particulars. The names of Emperours, Princes, and Dukes have relation to their conduct in the wars, and principall places in Combats, and other places of Command. Likewise the Greekes call them in their Language, *Basiles*, *Archa*, *Hegemodes*, which is to say, props of the people, Princes, Conductors. The Germans and other Nations use all significant names, and which expresse, that the duty of a *King* consists not in making glorious Paradoes: but that it is an office of a weighty charge and continual care. But in brief, the Poet *Homer* calls Kings the Judges of Cities, and in describing of *Agamemnon*, he calls him wise, strong, and valiant. As also, *Ovid* speaking of *Erichtheus*, says, That it was hard to know, whether Justice or Valour were more transparent in him; in which these two Poets seems exactly to have described the duties of Kings and Princes. You see what was the Custom of the Kings of the Heathen Nations; after whose examples, the Jews demanded and established their Kings.

The English word KING is derived from the Konigen, which signifies either fortitude or wisdom.

Hom. lib. 1. Iliad.

Ovid. l. 6. meta.

Justia dubium validine potentior armis.

The Queen of *Sheba* said also to *Solomon*, That God had made him King over them to do Judgment and Justice.

2 chron. 9. 8.

And *Solomon* himself speaking to God, saith, Thou hast chosen me to be a King over thy People, and a Judge of thy Sons and Daughters.

Wisdom 9. 7.

For

For this cauſe alſo the good Kings, as *David*, *Joſephat*, and others, being not able in their own Perſons to determine all the ſuits and differences of their Subjects (although in the cauſes of greateſt Importance they received an appeal always to themſelves, as appears in *Samuel*) had ever above all things a ſpecial care, to eſtabliſh in all places Juſt and Diſcreet Judges, and principally ſtill to have an eye to the right Adminiſtration of Juſtice; knowing themſelves to carry the Sword, as well to chaſtiſe Wicked and Unjuſt Subjects, as to repulſe forreign Enemies. 2 *Sam.* 15. 2. 1 *Chron.* 23. 4. & 26, 29. 2 *Chron.* 19. 11.

Briefly, as the Apoſtles ſays, *The Prince is ordain'd by God for the good and profit of the People, being armed with the Sword to defend the good from the violence of the wicked*, and when he diſchargeth his duty therein, all men owe him honour and obedience. *Rom.* 13.

Seeing then that Kings are ordained by God, and eſtabliſhed by the People, to procure and provide for the good of thoſe which are committed unto them, and that this Good or Profit be principally expreſſed in two things, to wit, in the admimiſtration of Juſtice to their Subjects, and in the managing of Armies for the repulſing their Enemies: certainly, we muſt infer and conclude from this, that the Prince which applies himſelf to nothing but his peculiar profits and pleaſures, or to thoſe ends which moſt readily conduce thereunto, which contemns and perverts all laws, which uſeth his ſubjects more cruelly then the barbarous Enemy would do, he may truly and really be called a Tyrant and that thoſe which in this manner govern their Kingdoms, be they of never ſo large an extent, are more properly unjuſt pillagers and free-booters, then Lawful Governours.

Whether Kings be above the Law.

We muſt here yet proceed a little further: for it is demanded whether the King which preſides in the adminiſtration of Juſtice have power to reſolve and determine buſineſs according to his own will and pleaſure? Muſt the Kings be ſubject to the law, or doth the law depend upon the King; the law (ſaith an Ancient) is reſpected by thoſe which otherways contemn vertue, for it inforceth obedience, and miniſtreth conduct in warfaring, and gives vigor and luſter to Juſtice and Equity. *Pauſanias* the *Spartane* will anſwer in a word, that it becomes laws to direct, and men to yield obedience to their Authority. *Ageſilaus* King of *Sparta* ſays, that all commanders muſt obey the commandments of the laws. But it ſhall not be amiſs to carry this matter a little higher, when People began to ſeek for Juſtice to determine their differences, if they met with any private man that did *Auguſt. l. 4. c. 4. & 6. de civitat. Dei.*

juſtly appoint them they were ſatisfied with it, now for ſo much as ſuch men were rarely and with much difficulty met withal, and for that the judgments of Kings received as laws were oftentimes found contrary and difficult, then the Magiſtrates and others of great wiſdom invented laws, which might ſpeak to all men in one and the ſame voice. This being done, it was expreſly enjoyned to Kings, that they ſhould be the guardians and adn iniſtrators and ſometimes alſo for ſo much as the laws could not foreſee the particularities of actions to reſolve exactly, it was permitted the King to ſupply this defect, by the ſame natural equity by which the laws were drawn; and for fear leaſt they ſhould go againſt law, the People appointed them from time to time Aſſociates, Councellors, of whom we have formerly made mention, wherefore there is nothing which exempts the King from obedience which he owes to the Law, which he ought to acknowledge as his Lady and Miſtreſs, eſteeming nothing can become him worſe then that feminine of which *Juvenal* ſpeaks: *Sic volo, ſic jubeo, ſit pro ratione voluntas.* I will, I command, my will ſhall ſerve inſtead of reaſon, neither ſhould they think their Authority the leſs becauſe they are confin'd to laws, for ſeeing the law is a divine gift coming from above, which humain ſocieties are happily governed and addreſſed to their beſt and bleſſedeſt end; thoſe Kings are as ridiculous and worthy of contempts, which repute it a diſhonour to conform themſelves to law, as thoſe ſurveyors which think themſelves diſgraced, by uſing of a rule, a compaſs, a chain or other inſtruments, which men underſtanding the art of ſurveying are accuſtomed to do, or a Pilot which had rather ſayle, according to his fantaſie and imagination, then ſteer his courſe by his Needle and Sea-Card; who can doubt, but that it is a thing more profitable&convenient to obey the law, then the king who is but one man? the law is the ſoul of a good king, it gives him motion ſence and life. The King is the Organ and as it were the body by which the Law diſplays her forces, exerciſes her function, and expreſſes her conceptions; now it is a thing much more reaſonable to obey the ſoul, then the body; the law is the wiſdom of diverſe ſages, recollected in few words, but many ſee more clear and further then one alone: It is much better to follow the Law then any one mans opinion be he never ſo acute, the law is reaſon and wiſdom it ſelf, free from all perturbation, not ſubject to be moved with Choler, Ambition, Hate, or acceptances of Perſons; Intreaties nor threats cannot make to bow nor bend; on the contrary, a man though endued with reaſon ſuffers himſelf to be lead and tranſported with anger, deſire of revenge,

venge, and others Passions which perplex him in such sort, that he looseth his understanding, because being composed of reason and disordered affections, he cannot so contain himself, but sometimes his passions becomes his Master. Accordingly we see that *Valentinian* a good Emperour, permits those of the Empire to have two Wives at once, because he was misled by that impure affection. Because *Cambises* the Son of *Cyrus* became inamoured of his own Sister, he would therefore have Marriages between Brother and Sister, be approved and held Lawful; *Cubades* King of the *Persians* prohibits the punishment of Adulterours; we must look for such Laws every day, if we will have the Law subject to the King. To come to our purpose, The Law is an Understanding Mind, or rather an Obstacle of many Understandings: the Mind being the seal of all the intelligent faculties, is (if I may so term it) a parcel of Divinity; in so much, as he who obeys the Law, seems to obey God, and receive him for Arbitrator of the matters in Controversie.

But on the contrary, insomuch as Man is composed of this Divine Understanding, and of a number of Unruly Passions; so loosing himself in that Brutishness, as he becomes void of Reason; and being in that condition, he is no longer a Man, but a Beast; he then which desires rather to obey the King, then the Law, seems to prefer the Commandment of a Beast before that of God. *Aristotle lib. 1 de mundo & lib. 3. poli ca. 7.*

And furthermore, though *Aristotle* were the Tutor of *Alexander*, yet he confesseth, that the Divinity cannot so properly be compared to any thing of this Life, as to the Ancient Laws of well-governed States; he that prefers the Common-wealth, applys himself to Gods Ordinances: but he that leans to the Kings Fancies, instead of Law, prefers Brutish Sensuality before well-ordered Discretion. To which also the Prophets seems to have respect, who in some places describe these great Empires, under the representation of ravening Beasts. But to go on, is not he a very Beast, who had rather have for his guide a Blind and Mad-Man, then he which sees both with the Eyes of the Body, and Mind, a Beast rather then God. Whence it comes, that though Kings as saith *Aristotle*, for a while, at the first, commanded without restraint of Laws; yet presently after Civilized People, reduced them to a Lawful Condition, by binding them to keep and observe the Laws: and for this unruly Absolute Authority, it remained only amongst those which commanded over *Barbarous* Nations.

He says afterwards, That this Absolute Power was the next Degree to plain Tyranny, and he had absolutely called it Tyranny, had not

these

theſe beaſts like *Barbarians*, willingly ſubjected themſelves unto it. But it will be replyed, that it is unworthy the Majeſty of Kings, to have their Wills bridled by Laws: But I will ſay, that nothing is more Royal, then to have our unruly Deſires ruled by good Laws.

It is much pity to be reſtrained from that which we would do; it is much more worſe to will that which we ſhould not do, but it is the worſt of all to do that which the Laws forbid.

I hear methinks a certain Furious Tribune of the People which oppoſed the paſſing of a Law that was made againſt the exceſs which then Reigned in *Rome*, ſaying, My Maſters, you are bridled, you are idle and fettered with the rude bonds of ſervitude, your liberty is loſt, a Law is laid on you, that commands you to be moderate: to what purpoſe is it to ſay, you are free, ſince you may not live in what exceſs of pleaſure you like? This is the very complaint of many Kings at this day, and of their Minions and Flatters.

The Royal Majeſty is aboliſhed, if they may not turn the Kingdom topſie-turvie at their pleaſure. Kings may go ſhake their Ears, if Laws muſt be obſerved.

Paradventure, it is a miſerable thing to live, if a Mad-man may not be ſuffered to kill himſelf when he will.

For what elſe do thoſe things which violate and aboliſh Laws, without which, neither Empires, no nor the very Societies of free-booters can at all ſubſiſt? *Cicero l. 2 officii.*

Let us then reject theſe deteſtable faithleſs and impious vanities of the Court-Marmouſites, which makes Kings Gods, and receive their ſayings as Oracles; and which is worſe, are ſo ſhameleſs to perſwade Kings, that nothing is juſt or equitable of it ſelf, but takes its true form of Juſtice or Injuſtice, according as it pleaſeth the King to ordain: as if he were ſome God, which could never err nor ſin at all. Certainly, all that which God wills is juſt, and therefore, ſuppoſe it is Gods will; but that muſt be juſt with the King wills, before it is his will. For it is not juſt, becauſe the King hath appointed it; but that King is juſt, which appoints that to be held for juſt, which is ſo of it ſelf.

We will not then ſay as *Anaxarchus* did to *Alexander*, much perplexed for the Death of his Friend *Clitus*, whom he had killed with his own hands; to wit, that *Themis* the Goddeſs of Juſtice, ſits by Kings ſides, as ſhe does by *Jupiters*, to approve and confirm whatſoever to them ſhall ſeem good; but rather, ſhe ſits as preſident over Kingdoms, to ſeverely Chaſtiſe thoſe Kings which wrong or violate the Majeſty of

of the Laws: we can no ways approve that saying of *Thrasimachus* the *Chaldonian*, that the profit and pleasure of Princes, is the rule by which all Laws are defined; but rather, that right must limit the profit of Princes, and the Laws restrain their pleasures. And instead of approving that which that Villainous Woman said to *Caracalla*, that whatsoever he desired vvas allovved him: We vvill maintain that nothing is Lavvful but vvhat the Lavv permits.

And absolutely rejecting that detestable Opinion of the same *Caracalla*, that Princes give Lavvs to others, but receive none from any; vve vvill say, That in all Kingdoms vvell established, the King receives the Lavvs from the people; the vvhich he ought carefully to consider and maintain; and vvhatsoever, either by force or fraud he does, in Prejudice of them, must alvvays be reputed unjust.

Kings receive Laws from the People.

These may be sufficiently verified by Examples. Before there vvas a King in *Israel*, God by *Moses* prescribed to him both sacred and civil Ordinances, vvhich he should have perpetually before his Eyes; but after that *Saul* was elected and established by the People, *Samuel* delivered it to him written, to the end, he might carefully observe it; neither were the succeeding Kings received before they had Sworn to keep those Ordinances. *Deut.* 17

The Ceremony was this, That together with the setting of the Crown on the Kings head, they delivered into his hands the Book of the Testimony, which some understand, *to be the right of the People of the Land*, others, *the Law of God, according to which he ought to Govern the People*. *Cyrus* acknowledging himself conservator of his Countreys Laws, obligeth himself to oppose any man that would offer to infringe them; and at his inauguration, tyes himself to observe them, although some Flatterers tickled the Ears of his Son *Cambises*, that all things were lawful for him.

The Kings of *Sparta*, whom *Aristotle* calls lawful Princes, did every month renew their Oaths, promising in the hands of the *Ephori*, procures for the Kingdom, to Rule according to those Laws which they had from *Licurgus*. *Zeneph. de Reb. Laced.*

Hereupon it being asked *Archidamus*, the Son of *Zeuxidamus*, who were the Governours of *Sparta*, he answered, *The Laws, and the lawful Magistrates.*

And

And least the Laws might grow into contempt, these people bragged that they received them from Heaven; and that they were inspired from above, to the end, that men might believe that their determinations were from God, and not from Man; the Kings of *Egypt* did in nothing vary from the Tenour of the Laws, and confessed that their principal Felicity consisted in the obedience they yielded to them. *Romulus* at the Institution of the *Romon* Kingdom, made this agreement with Senators, the people should make Laws, and he would take both for himself and others, to see them observed and kept. *Antiochus* the third of that Name, King of *Asia*, Writ unto all the Cities of his Kingdom, That if in the Letters sent unto them in his Name, there were any thing found repugnant to the Laws, they should believe they were no act of the Kings, and therefore yield no obedience unto them. Now although some Citizens say, That by Decree of Senate, the Emperour *Augustus* was declared to be exempt from obedience to Laws; yet notwithstanding, *Theodosius*, and all the other good and reasonable Emperours, have professed that they were bound to the Laws, lest what had been extorted by Violence, might be acknowledged and received instead of Law. And for *Augustus Cæsar*, insomuch as the *Roman* Common-wealth was enthralled by his power and violence; she could say nothing freely, but that she had lost her freedom. And because they durst not call *Augustus* a Tyrant, the Senate said he was exempt from all obedience to the Laws, which was in effect as much as if they plainly should have said the Emperour was an out-law. The same right hath ever been of force in all well-governed States and Kingdoms of Christendom.

Fulgos. lib. 5. c. 6.

For neither the Emperour, the King of *France*, nor the Kings of *Spain*, *England*, *Polander*, *Hungary*, and all other Lawful Princes; as the Arch Dukes of *Austria*, Dukes of *Brabante*, Earls of *Flanders*, and *Holland*, nor other Princes, are not admitted to the Government of their Estates, before they have promised to the Electours, Peers, Palatines, Lords, Barons, and Governours, that they will render to every one right according to the Laws of the Countrey, yea so strictly that they cannot alter or innovate any thing contrary to the priviledges of the Countreys, without the consent of the Towns and Provinces; if they do it, they are no less guilty of Rebellion against the Laws, then the people is in their kind, if they refuse obedience, when they command according to Law; Briefly, Lawful Princes receive the Laws from the People as well as the Crown, in lieu of Honour, and the

Scepter

ſcepter in lieu of power, which they are bound to keep and maintain and therein repoſe their chiefeſt Glory.

If the Prince may make new Laws?

What then? ſhall it not be lawful for a Prince to make new Laws and abrogate the old? ſeeing it belongs to the King, not only to adviſe that nothing be done neither againſt, nor to defraud the Laws: but alſo that nothing be wanting to them, nor any thing too much in them; briefly, that neither Age nor Lapſe of time do aboliſh or entomb them; if there be any thing to abridge, to be added or taken away from them, it is his Duty to aſſemble the Eſtates, and to demand their Advice and Reſolution, without preſuming to publiſh any thing before the whole have been, firſt, duly examined and approved by them, after the Law is once enacted and publiſhed, there is no more diſpute to be made about it, all men owe obedience to it, and the Prince in the firſt place, to teach other men their Duty, and for that all men are eaſilier led by Example than by Precepts, the Prince muſt neceſſarily expreſs his Willingneſs to obſerve the Laws, or elſe by what equity can he require Obedience in his Subjects, to that which he himſelf contemns.

For the difference which is betwixt Kings and Subjects, ought not to conſiſt in Impunity, but in Equity and Juſtice. And therefore, although *Auguſtus* was eſteemed to be exempt by the Decree of the Senate, notwithſtanding reproving of a young man that had broken the *Julian* Law concerning Adultery, he boldly replied to *Auguſtus*, that he himſelf had tranſgreſſed the ſame Law which condemns Adulterers. The Emperor acknowledged his Fault, and for grief forbore too late. So convenient a thing it is in Nature, to practiſe by example that which we would teach by precept. *Demoth in oratio con. Timocrat.*

The Lawgiver *Solon* was wont to compare Laws to Money, for they maintain human ſocieties, as mony preſerves Traffick, neither improperly, then if the King may not lawfully, or at the leaſt heretofore could not mannace or embaſe good Money without the conſent of the Common-wealth, much more leſs can he have power to make and unmake Laws, without the which, nor Kings, nor Subjects, can cohabit in ſecurity, but muſt be forced to live brutiſhly in Caves and Deſarts like wild Beaſts, wherefore alſo the Emperor of *Germany* eſteeming it needful to make ſome Law for the good of the Empire, firſt he demands the Advice of the Eſtates, if it be there approved, the Princes, Barons and Deputies of the Towns ſign it, and then the Law is ratified, for he ſolemnly ſwears to keep the Laws already made, and to introduce no new ones without a general Conſent. *Innocen. 3. regem. Fam. in ca. de jure jurando.*

There is a Law in *Polonia*, which hath been renewed in the Year 1454. and alſo in the year 1538. and by thoſe it is decreed, that no new Laws ſhall be made, but by a common Conſent, nor no where elſe, but in the General Aſſembly of the Eſtates.

For the Kingdom of *France*, where the Kings are thought to have greater Authority than in other places; antiently, all Laws were only made in the Aſſembly of the Eſtates, or in the Ambulatory *Parliament*. But ſince this Parliament hath been Sedentary, the Kings Edicts are not received as authentical, before the *Parliament* hath approved them.

Whereas on the Contrary, the Decrees of this *Parliament*, where the Law is defective, have commonly the power and effect of Law. In the Kingdoms of *England*, *Spain*, *Hungary*, and others, they yet enjoy in ſome ſort their ancient Priviledges.

For, if the Welfare of the Kingdom depends on the obſervation of the Laws, and the Laws are enthrauled to the pleaſure of one man; is it not moſt certain, that there can be no permanent ſtability in that Government? Muſt it not then neceſſarily come to paſs, that if the King (as ſome have been) be infected with Lunacy, either continually, or by intervals, that the whole State fall inevitably to ruine? But if the Laws be ſuperior to the King, as we have already proved, and that the King be tied in the ſame reſpect of obedience to the Laws, as the Servant is to his Maſter, who will be ſo ſenſleſs, that will not rather obey the Law than the King? or will not readily yield his beſt aſſiſtance againſt thoſe that ſeek to violate or infringe them? Now ſeeing that the King is not Lord over the Laws, let us examine how far his Power may be juſtly extended in other things.

Whether the Prince have Power of Life and Death over his Subjects?

The Minnions of the Court hold it for an undeniable Maxim, That Princes have the ſame power of Life and Death over their Subjects, as antiently Maſters had over their Slaves, and with theſe falſe Imaginations have ſo bewitched Princes, that many, although they put not in ure with much rigour this imaginary right, yet they imagine that they may lawfully do it, and in how much they deſiſt from the practiſe thereof, inſomuch, that they quit and relinquiſh their right and due.

But

But we affirm on the contrary, that the *Prince* is but as the Minister and Executor of the Law, and may only unsheath the Sword against those whom the Law hath condemned; and if he do otherwise, he is no more a King, but a Tyrant; no longer a Judge, but a Malefactor, and instead of that honorable Title of Conservator, he shall be justly branded with that foul Term of Violator of the Law and Equity.

We must here first of all take into our Consideration the foundation on which this our Disputation is built, which we have resolved into this Head, *That Kings are ordained for the benefit and profit of the publick State*; this being granted, the question is soon discust: For who will believe that men sought and desired a King, who upon any sudden motion, might at his pleasure cut their Throats; or which in colour or Revenge, might when he would take their Heads from their Shoulders.

Briefly, who (as the wise man says) carries Death at his tongues end, we must not think so idely.

There is no man so vain, which would willingly that his Welfare should depend of anothers pleasure; Nay, with much difficulty will any man trust his Life in the hands of a Friend or a Brother, much less of a Stranger, be he never so worthy. Seeing that Envy, Hate, and Rage did so far transport *Athanas* and *Ajax*, beyond the bounds of reason, that the one killed his Children, the other failing to effect his desire in the same kind against his Friends and Companions, turned his Fury and murtherous intent, and acted the same Revenge upon himself. Now it being natural to every man to love himself, and to seek the preservation of his own Life.

In what assurance, I pray you, would any man rest, to have a Sword continually hanging over his head by a small thread, with the point towards him? Would any Mirth or Jollity relish in such a continual Affright? Can you possibly make choice of a more slender Thread, than to expose your Life and Welfare into the hands and power of a Man so mutable, that changes with every puff of Wind. Briefly, which almost a thousand times a day, shakes off the Restraint of Reason and Discretion, and yields himself Slave to his own unruly and disordered Passions.

Can there be hoped or imagined any profit or advantage so great or so worthy, which might equallize or counterpose this fear, or this danger? Let us conclude then, that it is against Delinquents only,

whom the mouth of the Law hath condemned, that Kings may draw forth the Sword of their Authority.

If the King may pardon those whom the Law condemns?

But because Life is a thing precious, and to be favoured, peradventure it will be demanded, whether the King may not pardon and absolve those whom the Law hath condemned?

I answer, no. Otherwise this cruel pitty would maintain Thieves, Robbers, Murtherers, Ravishers, Poysoners, Sorcerers, and other Plagues of Mankind, as we may read Tyrants have done heretofore in many places, and to our woful Experience, we may yet see at this present time; and therefore, the stopping of Law in this kind, will by impunity, much encrease the Number of Offendors.

So that he which received the Sword of Authority from the Law, to pardon Offences, will arm Offenders therewith against the Laws, and put himself the Wolf into the Fold, which he ought to have warranted from their ravenous Outrage.

But for so much that it may chance in some occasions, that the Law being mute, may have need of a speaking Law, and that the King being in some cases the apteſt Expositor, taking for the Rule of his Actions, Equity and Reason, which as the Soul of the Soul may so clear the intention thereof, as where the Offence is rather committed against the Words, than the Intendment of the Law, he may free the innocent Offender from the Guilt thereof because a just and equitable Exposition of the Law may in all good reason be taken for Law it self, as neareſt concurring with the Intention of the Law-Makers.

1. *Nominis & rei* S. *verbum ex lege.* D. *de verb. signif.*

Notwithstanding, least Passion should prepossess the place of reason, Kings should in this, fashion themselves to the ordinary practice of the Emperor *Severus*, not to determine absolutely any thing before it were maturely discussed by upright and discreet Men in that Faculty.

And so the King may rigorously punish the Murtherer; and yet notwithstanding, pardon him, which casually, and without any such purpose killeth one. He may put to death the Thief, and yet pardon that man, which in his own defence killeth him that would have robbed him. Briefly, in all other Occurrences he may distinguish, as being established Arbitrator and Neuter, Chance-medly from Malice, fore-thought a good purpose from the Rigor of the Law, without favouring at any time Malice or Treason. Neither can the

right

right omission of this duty gain to him any true esteem of merciful: for certainly that Shepheard is much more pitiful which kills the Wolf, then he which lets him escape: the clemency of that *King* is more commendable which commits the Malefactor to the Hangman, than he which delivers him; by putting to death the Murtherer, many Innocents are delivered from danger: whereas, by suffering him to escape, both he and others through hope of the like Impunity, are made more audacious to perpetrate farther mischief, so that the immediate act of saving one Delinquent, arms many hands to murther divers Innocents; there is therefore both truly Mildness in putting to death some, and as certainly Cruelty in pardoning of others. Therefore as it is permitted the King, being as it were *Custos* of the Law, in some cases to interpret the words thereof: so in all well ordered Kingdoms, it is enjoyned the Counsel of State, and their duty obligeth them to examine the Kings interpretation, and to moderate both his severity and facility. If through the corruption and weakness of Men this have not been so really and throughly observed as it ought: Yet notwithstanding the right always remains intire, and there wants only Integrity and Courage in the Parties to make it effectual.

But not to heap up too many Examples in a matter so manifestly clear, it hath been in this manner practised in the Realm of *France*. For we have there oftentimes seen those put to death, to whom the King had granted his Charter of Pardon: and those pardoned, whom he commanded should be put to death. And sometimes Offences committed in the King's presence remitted, because there was no other Witness but himself. The which happened in the time of *Henr.* 2. to a certain stranger, who was accused by the King himself of a grievous offence. If an Offender by the intercession of Friends have his Pardon granted by the King, the Chancellor upon sufficient cause may cancel it: If the Chancellor connive, yet must the Criminal present it before the Judges, who ought not only carefully to consider, whether the Pardon were gotten by surreptitious or indirect means, but also if it be legal, and in due form: Neither can the Delinquent that hath obtained his Charter of Pardon make use of it, until first he appeal in Publick Court bare-headed, and on his knees plead it, submitting himself Prisoner until the Judges have maturely

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weighed and considered the reasons that induced the King to grant him his pardon: If they be found insufficient, the offender must suffer the punishment of the Law, as if the King had not granted him any pardon: But if his pardon be allowed, he ought not so much to thank the King, as the equity of the Law which saved his life. The manner of these proceedings was excellently ordained, both to contain the King within the limits of equity, lest being armed with publick Authority, he should seek to revenge his own particular spleen, or out of fancy or partiality remit the wrongs and outrages committed against the publick safety: as partly also to restrain an opinion in the Subject, that any thing could be obtained of the King which might prejudice the Laws. If these things have been ill observed in our times, notwithstanding that which we have formerly said, remains always certain, that it is the Laws which have power over the lives and deaths of the Inhabitants of a Kingdom, and not the King which is but Administrator and Conservator of the Laws.

Subjects are the Kings Brethren, and not his Slaves.

For truly neither are the Subjects, as it is commonly said, the Kings Slaves, or Bondmen: being neither prisoners taken in the Wars, nor bought for money: But as considered in one intire body they are Lords, as we have formerly proved; so each of them in particular ought to be held as the Kings *Brothers and Kinsmen.* And to the end that we think not this strange, let us hear what God himself saith when he prescribes a Law to Kings; That they lift not their heart above their Brethren from amongst whom they were chosen. Whereupon *Bartolus* a famous Lawyer, who lived in an age that bred many Tyrants, did yet draw this conclusion from that Law, that Subjects were to be held and used in the quality and condition of the Kings Brethren, and not of his Slaves. Also King *David* was not ashamed to call his Subjects *his brethren.* The ancient Kings were called *Abimelech*, an *Hebrew* word which signifies, *My father the King.* The Almighty and all good God, of whose great gentleness and mercy we are daily partakers, and very seldom feel his severity, although we justly deserve it, yet is it always mercifully mixed with compassion; whereby he teacheth Princes, his Lieutenents, that Subjects ought rather to be held in obedience by love, than by fear.

Deut. 17. 15. 20.

Barto. in tract. de regim civit

1 Chr. 28. 2.

But lest they should except against me, as if I sought to intrench

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too much upon the Royal Authority, I verily believe it is so much the greater, by how much it is likely to be of longer continuance. For saith one, servile fear is a bad guardian, for that Authority we desire should continue; for those in subjection hate them they fear, and whom we hate, we naturally wish their destruction: On the contrary, there is nothing more proper to maintain their Authority than the affection of their subjects, on whose love they may safelieſt and with most security lay the foundation of their greatness. And therefore that Prince which governs his Subjects as Brethren, may confidently assure himself to live securely in the midst of dangers: whereas he that useth them like slaves, must needs live in much anxiety and fear, and may well be resembled to the condition of that Master which remains alone in some Desart in the midst of a great Troop of Slaves, for look how many Slaves any hath, he must make account of so many Enemies, which almost all Tyrants that have been killed by their Subjects have experimented: Whereas on the contrary, the Subjects of good Kings are ever as solicitously careful of their safety, as of their own welfare.

Cicer. l. 2. offic.

To this may have reference that which is read in divers places of *Aristotle*, and was said by *Agasicles* King of *Sparta*, That Kings command as Fathers over their Children, and Tyrants as Masters over their Slaves, which we must take in the same sence, that the Civilian *Martianus* doth, to wit, that Paternal Authority consists in Piety, and not in Rigour, for that which was practised amongst the Men of the Accorn Age, that Fathers might sell, and put to death their Children at their pleasure, hath no Authority amongst Christians, yea, the very Pagans which had any humanity, would not permit it to be practised on their Slaves. Therefore then the Father hath no power over the sons life, before first the Law have determined it, otherwise he offends the Law, *Cornelius* against privy Murtherers, and by the Law *Pompeius* against *Parricides*, the Father is no less guilty which kills the son, than the Son which murthers the Father: For the same occasion the Emperor *Adrian* banished into an Island, which was the usual punishment for Notorious Offenders, a Father which had slain his Son, of whom he had entertained a jealous opinion for his Mother-in-Law, concerning Servants or Slaves, we are admonished in holy writ to use them like Brethren, and by Human Constitu-

Plato lib. 8. de epub. Seneca. Aliud est servire, aliud obedire: aliud libertas, aliud licentia.

L. 5. D. de paricid. L. 2. ad leg. Cornelium de sicar ubi ulp. L. 1. c. de parricid

Constitutions as Hirelings, or Mercenaries.

Eccleſiaſt. 33. Cicer. lib. 3. offici. Diod. Sic. lib. 2. C. 2. L. 1. D. de his qui ſunt ſui, vel. al. juris.

By the Civil Law of the *Egyptians*, and *Romans*, and by the Conſtitutions of the *Antonims*, the Maſter is as well liable to puniſhment which hath killed his own ſlave, as he which killed another mans. In like manner the Law delivers from the power of the Maſter, the Slave whom in his ſickneſs he hath altogether neglected, or hath not afforded convenient food, and the infranchiſed Slave whoſe condition was ſomewhat better, might for any apparent injury bring his action againſt his Patron. Now ſeeing there is ſo great difference between Slaves, and Lawful Children, betwixt Lords and Fathers, and notwithſtanding heretofore it was not permitted amongſt the Heathen, to uſe their Slaves cruelly: What ſhall we ſay, pray you, of that Father of the people, which crys out tragically with *Atreus*, I will devour my Children? In what eſteem ſhall we hold that Prince which takes ſuch pleaſure in the maſſacring his Subjects, (condemned without being ever heard) that he diſpatched many thouſand of them, in one day, and yet is not glutted with blood: Briefly who after the Example of *Caligula* (ſurnamed the *Phaeton* of the World) wiſheth that all his people had but one Head that he might cut it off at one blow? Shall it not be lawful to implore the aſſiſtance of the Law againſt ſuch furious madneſs, and to pull from ſuch a Tyrant the ſword which he received to maintain the Law, and defend the good, when it is drawn by him only for rapine, and ruine?

Whether the goods of the people belong to the King?

But to proceed, let us now ſee whether the King whom we have already proved, hath not power over the lives of his Subjects; is not at the leaſt Lord over their Goods. In theſe days there is no language more common in the Courts of Princes, then of thoſe who ſay all is the Kings. Whereby it follows, that in exacting any thing from his Subjects he takes but his own, and in that which he leaves them, he expreſſeth the care he hath that they ſhould not be altogether deſtitute of means to maintain themſelves; and this opinion hath gained ſo much power in the minds of ſome Princes, that they are not aſhamed to ſay that the pains, ſweat and induſtry of their Subjects is their proper Revenue, as if their miſerable Subjects only kept Beaſts

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to Till the Earth for their insolent Masters profit, and luxury. And indeed, the practise at this day is just in this manner, although in all right and equity it ought to be contrary, now we must always remember that Kings were created for the good and profit of the People, and that those (as *Aristotle* says) which indeavour and seek the Commodity of the People, are trusty Kings: whereas those that make their own private ends and pleasures, the only butt and aim of their desires are truly Tyrants.

It being then so that every one loves that which is his own, yea that many covet that which belongs to other Men, is it any thing probable that Men should seek a Master to give him frankly all that they had long laboured for, and gained with the Sweat of their Brows? May we not rather imagine, that they chose such a Man on whose integrity they relied for the administring of justice equally both to the Poor and Rich, and which would not assume all to himself, but rather maintain every one in the fruition of his own goods? or who like an unprofitable Drone, should suck the Fruit of other Mens Labours, but rather preserve the House, for those whose industry justly deserved it? briefly, who instead of extorting from the true owners their goods, would see them defended from all ravening Oppressors? What I pray you skills it says the poor Country man, whether the King, or the Enemy make havok of my Goods, since through the spoil thereof I and my poor family die for hunger? what imports it whether a Stranger or home-bred Caterpiller ruine my Estate, and bring my poor fortune to extream beggery? Whether a forrein Souldier, or a Sicophant Courtier by force or fraud, make me a like miserable? Why shall he be accounted a barbarous Enemy, if thou be a friendly Patriot? Why he a Tyrant if thou be King? Yea certainly by how much Paracide is greater then Manslaughter, by so much the wickedness of a King, exceeds in mischief the violence of an Enemy.

If then therefore in the Creation of Kings, Men gave not their own proper goods unto them, but only recommended them to their protection; by what other right then, but that of free booters, can they challenge the property of other Mens goods to themselves? Wherefore the Kings of *Egypt* were not (according to Law) at the first the Lords of particular Mens Estates, but were only then when they were sold unto them for Corn, and

Gen. 45. 1 Kings. 21. 1. &c. *L.venditor.* 13. *D. de com. præd. divid.*

yet may there well be queſtion made of the validity of that contract. *Ahab* King of *Iſrael* could not compel *Naboth* to ſell him his Vineyard; but rather if he had been willing, the Law of God would not permit it. The *Roman* Emperors which had an unreaſonable power, could neither by right have done it. At this day there is with much difficulty any Kingdom to be found, where the meaneſt Subject may not ſuit the King, and where many times the King is not caſt in the ſuit, which ſucceeding he muſt as well as others ſatisfie the Judgment. And to this is not contrary, although at the firſt veiw it ſeem ſo, that which ſome of their moſt familiars have written of the Emperors. That by the civil Law all things were the Kings, and that *Cæſar* was abſolute Lord of all things, they themſelves expound this their opinion in this manner, that the Dominion of all things belongs to the King, and the propriety to particular Perſons, in ſo much as the one poſſeſſeth all by the right of commanding, the other by the Law of Inheritance: We know, that it is a common ſaying amongſt the Civilians, that if any make claim to a Houſe or a Ship, it follows not therefore that he can extend his right to all the Furniture or Lading. And therefore a King may challenge and gain right to the Kingdom of *Germany*, *France* and *England*: and yet notwithſtanding he may not lawfully take any honeſt Mans Eſtate from him, but by a manifeſt injuſtice, ſeeing that they are things diverſe, and by Law diſtinguiſhed, to be poſſeſors of the whole, and of all the particular parts.

Whether the King be the proper owner of the Kingdom?

But the King, is he not Lord proprietor of the publick Revenue? We muſt handle this point ſomewhat more exactly then we did the former. In the firſt place, we muſt conſider that the Revenue of the publick Exchequer is one thing, and the proper Patrimony of the Prince another, of different Nature are the goods of the Emperor, King, or Prince; to thoſe of *Antonius*, *Henry*, or *Phillip*; thoſe are properly the Kings, which he enjoys as King, thoſe are *Antonius* his which he poſſeſſeth, as in the right of *Antonius*, the former he received from the people, the latter from thoſe of his blood, as inheritor to them.

This diſtinction is frequent in the Books of the Civil Law, where there is a difference ever made, between the Patrimony of the

the Empire, and that of the Emperor, the Treasury of *Cæsar* is one thing, and the Exchequer of the Common-wealth another, and both the one and the other have their several procurers, there being diverse dispensers of the sacred and publick distributions, and of the particular and private Expences, insomuch as he which as Emperor is preferred before a private Man, in a grant by Deed or Chartel, may also sometime as *Antonius* give place to an inferiour person.

In like manner in the Empire of *Germany*, the Revenue of *Ferdinand* of *Austria* is one thing, and the Revenue of the Emperor *Ferdinand* is another: the Empire, and the Emperor have their several Treasures: as also there is difference in the Inheritances which the Princes derive from the Houses of their Ancestors, and those which are annexed to the Electoral Dignities. Yea amonst the *Turks* themselves, *Selimus* his Gardens and patrimonial Lands are distinguished from those of the publick, the one serving for the Provision of the *Sultans* Table, the other imployed only about the *Turkish* Affairs of State. There be notwithstanding Kingdoms as the *French* and *English*, and others in which the King hath no particular Patrimony, but only the Publick which he received from the People, there this former distinction hath no place. For the goods which belongs to the Prince as a private Person there is no question, he is absolute owner of them as other particular Persons are, and may by the Civil Law sell, ingage, or dispose of them at his pleasure. But for the goods of the Kingdom, which in some places are commonly called the *Demeans*, the Kings may not be esteemed nor called in any sort whatsoever, absolute Lords Proprietors of them. For what if a Man for the Flocks sake have made thee Shepheard, doth it follow that thou hast liberty, to flea, pill, sell, and transport the Sheep at thy pleasure? Although the People have established thee Judge, or Governour of a City, or of some Province, hast thou therefore power to alienate, sell, or play away that City or Province? And seeing that in alienating or passing away a Province, the People also are sold, have they raised thee to that Authority to the end thou shouldest separate them from the rest, or that thou shouldest prostitute and make them slaves to whom thou pleasest? Furthermore I demand if the Royal dignity be a Patrimony, or an Officer? If it be an Office, what Community hath

L. cum servus 39. Sec. ult. D. de leg. 1. l. universi. 9. & l. seq. C. de fundo patrim.

with any propriety? If it be a Patrimony, is it not such a one that at least the Paramount propriety remains still in the People which were the Doners? Briefly if the revenue of the Exchequer, or the Demeans of the Kingdom, be called the Dowry of the Common-wealth, and by good right, and such a Dowry whose dismembring or wasting, brings with it the ruine of the publick State, the Kingdom and the King, by what Law shall it be lawful to alienate this Dowry? Let the Emperor *Wenceslaus* be infatuated, the *French* King *Charles* the Sixth Lunatick, and give or sell the Kingdom, or part of it to the *English*, let *Malcolme* King of the *Scots*, lavishly dissipate the Demeans and consume the Publick Treasure, what follows for all this? Those which choose the King to withstand the Invasions of forrein Enemies, shall they through his Madness and negligence be made the Slaves of strangers, and those Means and Wealth, which would have secured them in the fruition of their own Estates and Fortunes? Shall they by the Election of such a King be exposed to the Prey and Rapine of all commers, and that which particular Persons have saved from their own necessities, and from those under their Tutorship and Government, (as it hapned in *Scotland*) to indue the Common-wealth with it, shall it be devoured by some Pandar or Broker, for unclean pleasures.

But if as we have often said, that Kings were constituted for the Peoples use, what shall that use be, if it be perverted into abuse? What good can so much mischief, and inconvenience bring, what profit can come of such eminent and irreparable dammages and dangers? If (I say) in seeking to purchase my own liberty and welfare, I ingage my self into an absolute thraldom, and willingly subject my self to anothers Yoak, and become a fettered slave to another mans unruly desires, therefore as it is imprinted in all of us by Nature, so also hath it by a long custom been approved by all Nations, that it is not lawful for the King by the Counsel of his own fancy and pleasure, to diminish or waste the publick Revenue; and those which have run a contrary course, have even lost that happy Name of a King, and stood branded with the infamous Title of a Tyrant.

I confess that when Kings were instituted, there was of necessity means to be assigned for them, as well to maintain their Royal dignity, as to furnish the Expence of their Train and Officers.

Civility

Civility, and the welfare of the publick State, seem to require it, for it was the Duty of a King to establish Judges, in all places, who should receive no Presents, nor sell Justice: and also to have Power ready to assist the execution of their Ordinances, and to secure the ways from dangers, that commerce might be open, and free, &c. If there were likelihood of Wars to fortifie and put Garrisons into the frontier places, and to hold an Army in the Field, and to keep his Magazines well stored with Amunition. It is commonly said, that Peace cannot be well maintained without provision for Wars, nor Wars managed without men, nor men kept in Discipline without Pay, nor Money gotten without Subsidies, and Tributes.

To discharge therefore the burden of the State in time of Peace, was the demean appointed, and in time of Wars the Tributes and imposts, yet so as if any extraordinary necessity required it, Money might be raised by Subsidies or other fitting means. The final intendment, of all, was ever the publick Utility, in so much as he which converts any of these publick Revenues to his own private purposes, much more he which mispends them in any unworthy or loose occasions, no way merits the name of a King, for the Prince (saith the Apostle) is the Minister of God for the good of the People: and for that cause is Tribute paid unto them. Rom. 15.

This is the true Original cause of the Customs, and Imposts of the *Romans*, that those rich Merchandizes which were brought from the *Indies*, *Arabia*, *Æthiopia*, might be secured in their passage by Land from Thiefs and Robbers, and in their *Transportation by Sea from Pirats, insomuch as for their security, the Commonwealth maintained a Navy at Sea.* In this Rank we must put the Custom which was paid in the Red Sea, and other Imposts of Gates, Bridges, and Passages, for the securing of the great Road-ways, (therefore called the *Pretorian Consular*, and the Kings High-ways,) from the spoil of Thieves and Free-booters. The care also of the Reparation of Bridges was referred to Commissaries deputed by the King, as appears by the Ordinance of *Lewis* the Courteous, concerning the twelve Bridges over the River *Seyne*, commanding also Boats to be in a readiness, to ferry over Passengers, &c.

The same reason is recorded for all our Imposts in *England*, with which a Navy was wont to be maintained at Sea.

For the Tax laid upon Salt there was none in use in those times, the most of the Salt-pits being injoyed by private Persons, because it seemed that that which Nature out of her own bounty presented unto Men, ought no more to be inhaunsed by sale then either

either the light, the Air, or the Water, as a certain King called *Lycurgus* in the leſſer *Aſia*, began to lay ſome impoſitions upon the Salt-pits there, Nature as it were impatiently bearing ſuch a reſtraint of her Liberality, the Springs are ſaid to dry up ſuddenly. Now although certain *Marmuſets* of the Court would perſwade us at this day, (as *Juvenal* complained in his time) that the Sea affords nothing of worth, or good, which falls not within the compaſs of the Kings Prerogative.

He that firſt brought this Taxation into *Rome*, was the *Cenſor Livius*, who therefore gained the Sirname of *Salter*, neither was it done but in the Commonwealths extream neceſſity. And in *France* King *Philip* the long, for the ſame reaſon obtained of the Eſtates the impoſition upon Salt for five years only, what Turmoils and Troubles the continuance thereof hath bred every Man knows. To be brief, all Tributes were impoſed, and continued for the Proviſion of means and Stipends for the men of War, ſo as to make a Province Stipendary or Tributary, was eſteemed the ſame with Military.

1 King. 9. 15.

Poſtel. li. 3. de rep. Turc.

Behold wherefore *Solomon* exacted Tributes, to wit, to fortifie the Towns, and to erect and furniſh a publick Magazine, which being accompliſhed, the people required of *Rehoboam* to be freed from that burden. The *Turks* call the Tribute of the Provinces, the *Sacred Blood* of the People, and account it a moſt wicked Crime to imploy it in any thing but the defence of the People. Wherefore by the ſame reaſon all that which the King Conquers in War belongs to the People, and not to the King, becauſe the People bore the Charges of the War, as that which is gained by a Factor accrues to the account of his Maſter. Yea and what advantage he gains by Marriage, if it belongs ſimply and abſolutely to his Wife, that is acquired alſo to the Kingdom, for ſo much as it is to be preſumed that he gained not that preferment in Marriage in quality of *Philip* or *Charles*, but as he was King. On the contrary, in like manner the Queens have intereſt of indowment in the Eſtates which their Husbands gained and injoyed before they attained the Crown, and have no Title to that which is gotten after they are created Kings, becauſe that is judged as the acquiſt of the Common Purſe, and hath no proper reference to the Kings private Eſtate, which was ſo determined in *France*, betwixt *Philip* of *Valoys*, and his Wife *Jean* of *Burgundy*. But to the end that there be no Money drawn from the People to

be

be imployed in private designs, and for particular ends and purposes; the Emperor swears, not to impose any Taxes or Tributes whatsoever, but by the Authority of the Estates of the Empire. As much do the Kings of *Polonia*, *Hungary*, and *Denmark* promise: the *English* in like manner enjoy the same unto this day, by the Laws of *Henry* the Third, and *Edward* the First.

The *French* Kings in former times, imposed no Taxes but in the Assemblies, and with the Consent of the three Estates; from thence sprung the Law of *Philip* of *Valois*, that the people should not have any Tribute laid on them but in urgent necessity, and with the Consent of the Estates. Yea and anciently after these Monies were collected they were locked in Coffers, through every Diocess and recommended to the special care of selected Men (who are the same which at this day are called *Esleus*) to the end that they should pay the Soldiers enrolled, within the Towns of their Dioceses: the which was in use in other Countries, as namely in *Flanders* and other neighbouring Provinces. At this day, though many Corruptions be crept in, yet without the Consent and Confirmation of the Parliament, no exactions may be collected, notwithstanding there be some Provinces which are not bound to any thing, without the Approbation of the Estates of the Countrey, as *Languedoke*, *Brittany Province*, *Daulphiny*, and some others. All the Provinces of the Low Countries have the same Priviledges: finally lest the Exchequer devour all, like the Spleen which exhales the Spirits from the other Members of the Body. In all places they have confined the Exchequer within its proper bounds and limits. Seeing then it is most certain that what hath been ordinarily and extraordinarily assigned to Kings, to wit, Tributes, Taxes, and all the demeans which comprehend all Customs both for Importations, and Exportations, Forfeitures, Amercements, Royal Escheats, Confiscations, and other Dues of the same Nature, were consigned into their hands for the maintenance and defence of the People, and the State of the Kingdom, insomuch as if these Sinews be cut, the People must needs fall to decay, and in demolishing these Foundations the Kingdom will come to utter Ruin. It necessarily follows, that he which lays impositions on the People only to oppress them, and by the publick detriment seeks private Profit, and with their own Swords kills his Subjects, he truly is unworthy the name of a King: Whereas contrarily, a true King as he is

a careful manager of the publick Affairs, so is he a ready Protector of the Common welfare, and not a Lord in Propriety of the Commonwealth, having as little Authority to alienate or dissipate the demeans or publick Revenue, as the Kingdom it self. And if he mis-govern the State, seeing it imports the Commonwealth that every one make use of his own Talent, it is much more requisite for the publick Good, that he which hath the managing of it, carry himself as he ought.

And therefore if a prodigal Lord by the Authority of Justice, be committed to the Tuition of his Kinsmen and Friends, and compelled to suffer his Revenues and Means to be ordered, and disposed of by others; by much more reason may those which have interest in the Affairs of State, and whose Duty obligeth them thereto, take all the Administration and Government of the State out of the hands of him which either negligently executes his place, Ruins the Commonwealth, if after admonition he indeavours not to perform his Duty. And for so much as it is easily to be proved, that in all lawful Dominions the King cannot be held Lord in Propriety of the demean; without searching into those elder times, whereof we have an apt Representation in the Person of *Ephron* King of the *Hittites*, who durst not sell the Field to *Abraham* without the Consent of the People. This right is at this day practised in publick States: the Emperor of *Germany* before his Coronation doth solemnly swear that he will neither alienate, dismember, nor ingage any of the Rights or Members of the Empire. And if he recover, or Conquer any thing with the Arms and means of the publick, it shall be gained to the Empire, and not to himself. Wherefore when *Charles* the Fourth promised each of the *Electors* an hundred thousand Crowns to choose his Son *Wenciflaus* Emperor, and having not ready Money to deliver them, he mortgaged Customs, Taxes, Tributes, and certain Towns unto them, which were the proper Appurtenances of the Empire: whereon followed much and vehement Contestation, most Men holding this ingagement void. And questionless it had been so declared, but for the Profit that those reaped thereby, which ought principally to have maintained and held intire the Rights and Dignities of the Empire. And it followed also, that *Wenciflaus* was justly held uncapable of the Government of the Empire, chiefly because he suffered the Rights of the Empire over the Dutchy of *Milan* to be wrested from him.

Gen. 23.

Sleyd. l. 1. & bulla murea.

L. 1. & passim c. de con. re. alien. naucler. in Chron.

There

There is a Law very ancient in the Kingdom of *Polonia*, which prohibits the alienating of any of the Kingdoms Lands; the which also was renewed by King *Lewis* in the year 1375. In *Hungary* in *anno* 1221. there was a complaint made to Pope *Honorius*, that King *Andrew* had ingaged the Crown Lands contrary to his Oath. In *England* was the same by the Law of King *Edw.* in the year 1298. Likewise in *Spain* by the Ordinance made under *Alphonsus*, and renewed in the year 1560. in the Assembly of the Estates at *Toledo*. These Laws were then ratified, although long time before Custom had obtained the vigor and effect of Law. Now for the Kingdom of *France* whereto I longer confine my self, because she may in a sort pass as a pattern to the rest, this right hath ever remained there inviolable. It is one of the most ancient Laws of the Kingdom, and a right born with the Kingdom it self, that the Demain may not be alienated: the which Law in *anno* 1566. (although but ill deserved) was renewed. There is only two cases excepted, the Portions or Appenages of the children and Brothers of the King, yet with this Reservation, that the right of Vassalage remains always to the Crown: in like manner if the condition of War require necessarily an alienation, yet it must be ever with power of Redemption. Anciently neither the one nor the other were of Validity, but by the commandment of the States: at this day since the *Parliament* hath been made Sedentary, the *Parliament* of *Paris* which is the Court of the Peers, and the Chamber of Accounts, and of the Treasury, must first approve it: as the Edicts of *Charles* the sixth and ninth do testifie. This is a thing so certain, that if the ancient Kings themselves would endow a Church (although that was a work much favoured in those days) they were notwithstanding bound to have an allowance of the Estates: witness King *Childebert*, who might not endow the Abbey of St. *Vincent* at *Paris* before he had the *French* and *Neustrasians* consent. *Clovis* the 2d. and other Kings have observed the same. They might neither remit the regalities by granting infranchisements, nor the nomination of Prelates to any Church. And if any of them have done it, as *Lewis* 11. *Philip* 4. and *Philip* surnamed *Augustus*, did in favour of the Churches of *Senis Auxera*, and *Nevers*, the *Parliament* hath declared it void. When the King is anointed at *Reims*, he swears to observe this Law: and if he infringe it, that Act hath as much validity with it as if he Contracted to sell the Empires of the Great *Turk*, or *Sophia* of *Persia*. From this spring the Constitutions or Ordinances of *Philip* 6. of *John* 2d. of *Charles* 5th. 6th. and 8th. by which they revoke all alienations made by their Predecessors.

C. intellecto de jurejurando in Decretal. Polid. Virgil. In cod. Hist. part 5. l. 5. constit. 9.

Papon Arestor. l. 5. tit. 10. Act. 4.

Aimonius l. 4. cha. 41. &c.

L. petto. 69. Sect. prædium. D. de leg. 2. An. 1329. 1360. 1374. 1401. 1583.

In the Assembly of the Estates at *Tours*, where King *Charles* the 8th was in person, divers alienations made by *Lewis* 11. were repealed, and annihilated, and there was taken away from the Heirs of *Tancred* of *Chastel* his great Minnion, divers places which he had given him by his proper Authority. This was finally ratified in the last Assembly of the Estates held at *Orleans*. Thus much concerning the Kingdoms Demean. But to the end that we may yet more clearly perceive that the Kingdom is preferred before the King, and that he cannot by his own proper Authority diminish the Majesty he hath received from the people, nor infranchise or release from his Dominion any one of his Subjects; nor quit or relinquish the Soveraignty of the least part of his Kingdom. *Charlemain* in former times endeavoured to subject the Kingdom of *France* to the *German* Empire: the which the *French* did couragiously oppose by the mouth of a Prince of *Glasconnie*; and if *Charlemayn* had proceeded in that business, it had come to the trial of the Sword. In like manner when any portion of the Kingdom was granted to the *English*, the Soveraignty was almost always reserved. And if sometimes they obtain'd it by force, as at the Treaty of *Bretigny*, by the which King *John* quitted the Soveraignty of *Glasconnie* and *Poyton*: that agreement was not kept, neither was he more bound to do it, then a Tutor or Guardian is being Prisoner (as he was then) which for his own deliverance should ingage the estate of his Pupils. By the power of the same Law, the Parliament of *Paris* made void the Treaty of *Conflius*, by the which Duke *Charles* of *Burgundy* had drawn from the King *Amiens*, and other Towns of *Picardy*. In our days the same Parliament declared void the Agreement made at *Madrid*, between *Francis* the 1. then Prisoner, and *Charles* the 5. concerning the Dutchy of *Burgundy*. But the donation made by *Charles* the 6. unto *Hen.* King of *England* of the Kingdom of *France* after his dicease is a sufficient testimony for this matter, and of his madness, if there had been no other proof. But to leave off producing any further Testimonies, Examples, or Reasons, by what right can the King give or sell away the Kingdom, or any part of it: seeing it consisteth of people, and not of Earth or Walls; and of Freemen there can be made no sale, nor traffick: yea, and the Patrons themselves cannot compel the Infranchised servants to make their Habitations in other places than themselves like. The which is the rather to be allowed, in that Subjects as neither Slaves, nor infranchised Servants, but Brothers: and not only the Kings Brethren taken one by one, but also considered in one body, they ought to be esteemed absolute Lords, and owners of the Kingdom.

Anno 1483. 1522. 1531. 1549. 1560. by divers Decrees of the Court of Parliament.

Paulus Æmilius, lib. 3.

Anno 1195. 1200. 1269. 1297. 1303. 1325. 1330. Anno 1360.

Anno 1465.

Anno 1525.

Anno 1420. Moustrelet. chap. 2. 25.

Whether the King be the Usufructuor of the Kingdom.

But if the King be not Lord in propriety, yet at the leaſt we may eſteem him Uſufructuor of the Kingdom, and of the Demean; nay, truly we can allow him to have the Uſufruit for being Uſufrictor, though the Propriety remain in the People, yet may he abſolutely diſpoſe of the Profits, and ingage them at his pleaſure. Now we have already proved, that Kings of their own Authority cannot ingage the Revenues of the Exchequer, or the Demean of the Kingdom. The Uſufructuor may diſpoſe of the Profits to whom, how, and when he pleaſeth. Contrarily, the exceſſive Gifts of Princes are ever judged void, his unneceſſary Expences are not allow'd, his Superfluous to be cut off, and that which is expended by him in any other occaſion, but for the publick Utility, is juſtly eſteemed to be unjuſtly extorted. And is no leſs liable to the Law *Cincea*, than the meaneſt *Roman* Citizen formerly was. In *France*, the Kings Gifts are never of force, until the Chamber of Accounts have confirmed them. From hence proceed the Poſtils of the ordinary Chamber, in giving up of the Accounts in the Reigns of prodigal Kings, *Trop donne: ſoyt repele*, which is, exceſſive Gifts muſt be recalled. The Judges of this Chamber ſolemnly ſwear to paſs nothing which may prejudice the Kingdom, or the publick State, notwithſtanding any Letters the King ſhall write unto them; but they are not always ſo mindful of this Oath as were to be deſire.

Furthermore, the Law takes no care how a Uſufructuor poſſeſſeth, and governs his Revenues, but contrariwiſe, ſhe preſcribes unto the King, how and to what uſe he ſhall imploy his. For the ancient Kings of *France*, were bound to divide their Royal Revenues into four parts. The firſt was implyed in the maintaining of the Miniſters of the Church, and providing for the Poor: The ſecond for the Kings Table: The third for the Wages of his Officers and Houſhold Servants: The laſt in repairing of Bridges, Caſtles, and the Royal Palaces. And what was remaining, was laid up in the Treaſury, to be beſtowed on the Neceſſities of the Common wealth. And Hiſtories do at large relate the Troubles and Tumults which hapned about the Year 1412. in the Aſſembly of the Eſtates at *Paris*, becauſe *Charles* the Sixth had waſted all the Money that was raiſed of the Revenues and Demean, in his own and his Minions looſe Pleaſures, and that the Expences of the Kings Houſhold, which before exceeded not the Sum of 94000. Francks, did amount, in that miſerable Eſtate of the Common-wealth, to five hundred and forty thouſand Francks. Now as the Demean was imployed in the before mentioned Affairs, ſo the Aids were on-

Monſtrel in Car. 6.

ly for the War, and the Taxes assigned for the Payment of the men at Arms, and for no other occasion. In other Kingdoms the King hath no greater Authority, and in divers less, especially in the Empire of *Germany*, and in *Poland*. But we have made choise of the Kingdom of *France*, to the end it be not thought this hath any special Prerogative above others, because there perhaps the Common-wealth receiveth the most Detriment. Briefly, as I have before said, the Name of a King signifies not an Inheritance, nor a Propriety, nor a Usufruict, but a Charge, Office, and Procuration. As a Bishop is chosen to look to the Welfare of the Soul, so is the King established to take care of the Body, so far forth as it concerns the publick Good; the one is Dispenser of the Heavenly Treasure, the other of the Secular, and what Right the one hath in the Episcopal Revenues, the same hath the other, and no greater in the Kingdoms Demean. If the Bishop alien the Goods of the Bishoprick, without the Consent of the Chapter, this Alienation is of no value; if the King alien the Demean without the Approbation of the Estates, that is also void; one Portion of the Ecclesiastical Goods ought to be imployed in the Reparation of the Churches; the second in Relieving of the Poor; the third, for the Maintenance of the Church-men, and the fourth for the Bishop himself: We have seen before, that the King ought to divide into four parts the Revenues of the Kingdoms Demean. The Abuse of these times cannot infringe, or annihilate the Right, for although some part of the Bishops steal from the Poor that which they profusely cast away on their Pandars, and ruine and destroy their Lands and Woods, the calling of the Bishops is not for all that altered. Although that some Emperors have assumed to themselves an absolute Power, that cannot invest them with any further Right, because no man can be Judge in his own Cause. What if some *Caracalla* Vaunt, he will not want Money whilst the Sword remains in his Custody: The Emperor *Adrian* will promise on the contrary, so to discharge his Office of Principality, that he will always remember that the Common-wealth is not his, but the Peoples; which one thing almost distinguisheth a King from a Tyrant. Neither can that Act of *Attalus* King of *Pergamus* designing the *Roman People* for Heirs to his Kingdom, nor that of *Aleexander* for *Ægypt*, nor *Ptolomy* for the *Cyrenians*, bequeathing their Kingdoms to the same *People*, nor *Prasutagus* King of the *Icenians*, which left his to *Cæsar*, draw any good Consequence of Right to those which usurp that which by no just Title belongs to them, nay, by how much the intrusion is more violent, by so much the Equity and Justice of the Cause is more perspicu-

Ex concil. Valent. in c. 1. *de his quæ fiunt a prælat. absq; consensu capit.*

ous-

ous: for what the *Romans* assumed under the colour of Right, they would have made no difficulty if that pretext had been wanting to have taken by force: we have seen almost in our days how the *Venetians* possest themselves of the Kingdom of *Ciprus*, under pretence of an imaginary Adoption, which would have proved ridiculous, if it had not been seconded by Power and Arms. To which also may be not unfitly resembled the pretended Donation of *Constantine* to Pope *Silvester*, for that Straw of the decretist *Gratian*, was long since consumed and turned to Ashes, neither is of more Validity, the Grant which *Lewis* the Courteous made to Pope *Paschal* of the City of *Rome*, and part of *Italy*, because he gave that which he possessed not, no man opposed it. But when his Father *Charlemain* would have united and subjected the Kingom of *France* to the *German* Empire, the *French* did lawfully oppose it: and if he had persisted in his purpose, they were resolved to have hindred him, and defended themselves by Arms. There can be too as little advantage alledged, that Act of *Solomons*, whom we read to have delivered twenty Towns to *Hiram* King of *Tire*: for he did not give them to him but for the securing of the Talents of Gold which *Hiram* had lent him, and they were redeemed at the end of the term, as it appears by the Text. Further, the Soul was barren, and husbanded by the remaining *Canaanites*: But *Solomon* having redeemed it out of the hands of *Hiram*, delivered it to the *Israelites* to be inhabited and tilled. Neither serves it to much more purpose, to alledge that in some Kingdoms there is no express Agreement between the King and the People; for suppose there be no mention made, yet the Law of Nature teacheth us, that *Kings* were not ordained to ruine, but to govern the Common-wealths, and that they may not by their proper Authority alter or change the Rights of the publick State, and although they be Lords, yet can they challenge it in no other Quality, than as Guardians do in the Tuition of their Pupils; neither can we account him a lawful Lord, which deprives the Common-wealth of her Liberty, and sels her as a Slave. Briefly, neither can we also alledge, that some Kingdoms are the proper Acquists of the King himself, insomuch as they were not conquered by their proper Means and Swords, but by the Hands, and with the Wealth of the Publick; and there is nothing more agreeable to reason, than that which was gained with the joynt faculties, and common danger of the Publick, should not be alien'd or

Volater. l Georg. 3.

1 King. 9. 11.

2 Chron. 8. 2.

dispos'd

dispos'd of, without the consent of the States which represent the Common-wealth: and the necessity of this Law is such, that it is o force amongst robbers and free-booters themselves. He which follows a contrary course, must needs ruine humane society. And although the *French* conquered by force of Arms, the Countreys of *Germany* and *Gaule*, yet this before mentioned right remains still intire.

L. 2. & passim. C. de interd. Com. rer. alienat.

To conclude, we must needs resolve, that Kings are neither Proprietors, nor Usu-fructuaries of the Royal Patrimony: But only Administrators: And being so, they can by no just right attribute to themselves the propriety, use, or profit of private mens Estates, nor with as little reason the publick Revenues, which are in truth only the Common-wealths.

But before we pass any further, we must here resolve a doubt. The people of *Israel* having demanded a King, the Lord said to *Samuel*: hearken unto the voice of the people: notwithstanding, give them to understand what shall be the manner of the King which shall reign over them: *he will take your fields, your vineyards, your olive-trees, to furnish his own occasions, and to enrich his servants*: briefly, *he will make the people slaves.* One would hardly believe in what estimation the Courtiers of our times hold this Text, when of all the rest of the holy Scripture they make but a jest. In this place the Almighty and all good God, would manifest to the *Israelites* their levity, when that they had God himself even present with them, who upon all occasions appointed them holy Judges, and worthy Commanders for the Wars, would notwithstanding rather subject themselves to the disordered Commandments of a vain mutable man, than to the secure protection of the Omnipotent and Immutable God. He declares then unto them in what a slippery estate the King was placed, and how easily unruly authority fell into disordered violence, and Kingly power was turned into tyrannous wilfulness. Seeing the King that he gave them, would by prepostrous violence draw the sword of authority against them, and subject the equity of the Laws to his own unjust desires: and this mischief which they wilfully drew on themselves, they would happily repent of, when it would not be so easily remedied. Briefly, this Text doth not describe the right of Kings, but what right they are accustomed to attribute to themselves: not what by the priviledge of their places they may justly do: but what power for the satisfying

1 Sam. 8. 7. &c.

ſatisfying of their own luſts, they unjuſtly uſurp. This will manifeſtly appear from the 17. Chapter of *Deuteronomy*, where God appoints a law for Kings. Here ſays *Samuel* the *King will uſe is Subjects like ſlaves?* there God forbids the King *to lift his heart above his bretbren*; to wit, *over his Subjects, whom he ought not to inſult over, but to cheriſh as his kinſmen. He will make Chariots, levy Horſemen, and take the goods of private men*, ſays *Samuel*: on the contrary in *Deuteronomy*, he is exhorted *not to multiply horſe-men, nor to heap up gold and ſilver, nor cauſe the people to return into* Ægypt, to wit, *into bondage*. In *Samuel* we ſee pictured to the life wicked *Ahab*, which by pernicious means gets *Naboths* Vineyard: there *David*, who held it not lawful to drink that water which was purchaſed with the danger of his Subjects lives. *Samuel* foretels that the King demanded by the *Iſraelites*, inſtead of keeping the laws, would govern all according to his own fanſie: On the contrary, God commands that his Law ſhould by the Prieſts be delivered into the hands of the King, to copie it out, and to have it continually before his eyes. Therefore *Samuel* being High Prieſt, gave to *Saul* the Royal Law contained in the 17th. of *Deuteronomy*, written into a Book, which certainly had been a frivolous act if the King were permitted to break it at his pleaſure. Briefly, it is as much as if *Samuel* had ſaid. *You have asked a King after the manner of other Nations, the moſt of whom have Tyrants for their Governors*: You deſire a King to diſtribute juſtice equally amongſt you: but many of them think all things lawful which their own Appetites ſuggeſts unto them; in the mean ſeaſon you willingly ſhake off the Lord, whoſe only will is equity and juſtice in the abſtract.

Deut. 17. 1 Kings 21. 2 Sam. 23. 16.

In *Heredotus* there is a Hiſtory which plainly expreſſes, *how apt the Royal Government is to degenerate into Tyranny*, whereof *Samuel* ſo exactly forewarns the people. *Deioces* much renowned for his juſtice, was firſt choſen Judge amongſt the *Medes*: preſently after, to the end he might the better repreſs thoſe which would oppoſe juſtice, he was choſen King, and inveſted with convenient authority, then he deſired a guard, after a Citadel to be built in *Ecbatana* the principal City of the Kingdom, with colour to ſecure him from Conſpiracies and Machinations of Rebels; which being effected, he preſently applys himſelf to revenge the leaſt diſpleaſures which were offered him, with the greateſt puniſhments.

Herod. l. 2.

Finally, no Man might preſume to look this King in the face, and

and to Laugh or Cough in his Presence, was punished with grievous Torments. So dangerous a thing it is, to put into the hands of a weak Mind (as all mens are by nature) unlimited Power. *Samuel* therefore teacheth not in that place, that the Authority of a King is absolute, ; on the contrary, he discreetly admonisheth the People not to enthraul their Liberty under the unnecessary Yoak of a weak and unruly Master; he doth not absolutely exclude the Royal Authority, but would have it restrain'd within its own limits; he doth not amplifie the Kings Right with an unbridled and licentious Liberty; but rather tacitely perswades to put a Bit into his Mouth. It seems that this advice of *Samuels* was very beneficial to the *Israelites*, for that they circumspectly moderated the Power of their Kings, the which, most Nations grown wise, either by the experience of their own, or their Neighbours Harms, have carefully looked unto, as will plainly appear by that which follows.

An Alliance or Covenant between the King and the People. Deut. 17. 1 Sam. 10. 27. 2 Sam. 5. 3. 1 Chron. 11. 3. 2 King. 11. 17. and 12. 2 Chron. 23. 3. 1 Kings 23. 3.

We have shewed already, that in the establishing of the King, there were two Alliances or Covenants contracted; the first between God, the King, and the People, of which we have formerly treated; the second, between the King and the People, of which we must now say somewhat. After that *Saul* was established King, the Royal Law was given him, according to which he ought to Govern. *David made a Covenant in Hebron before the Lord*, that is to say, *taking God for witness, with all the Ancients of Israel, which presented the whole body of the People, and even then he was made King. Joas* also by the mouth of *Johojada* the High Priest, entred into Covenant *with the whole People of the Land in the House of the Lord:* And when the Crown was set on his Head, together with it was the Law of the Testimony put into his Hand, which most expounds to be the Law of God; likewise *Josias* promiseth *to observe and keep the Commandments, Testimonies and Statutes comprized in the Book of the Covenant:* under which words, are contained all which belongs to the Duties both of the first and second Table of the Law of God. In all the before remembred places of the holy Story, it is ever said, *that a Covenant was made with all the People, with all the Multitude, with all the Elders, with all the Men of Juda:* to the end that we might know, as it is also fully expressed, that not only the Principals of the Tribes, but also all the Milleniers, Centurions, and subaltern Magistrates should meet together, each of them in the Name, and for their Towns and Communalties, to Covenant and

Contract

Contract with the King. In this Assembly was the creating of the King determined of, for it was the People that made the King, and not the King the People.

It is certain then, that the People by way of stipulation, require a performance of Covenants, the King promises it. Now the condition of a Stipulator is in terms of Law more worthy than of a Promiser. The People asketh the King, whether he will govern justly and according to the Laws? He promiseth he will. Then the People answereth, and not before, that whilst he governs uprightly, they will obey faithfully. The King therefore promiseth simply and absolutely, the People upon condition: the which failing to be accomplished, the People rest according to Equity and Reason, quit from their Promise.

In the first Covenant or Contract, there is only an Obligation to piety: in the second, to Justice. In that the King promiseth to serve God religiously: in this, to rule the People justly. By the one he is obliged with the utmost of his Endeavors to procure the Glory of God: by the other, the profit of the People. In the first, there is a Condition expressed, If thou keep my Commandments: in the second, If thou distribute Justice equally to every man. God is the proper revenger of deficiency in the former, and the whole People the lawful punisher of delinquency in the latter, or the Estates, the representative Body thereof, who have assumed to themselves the protection of the People. This hath been always practised in all well-governed Estates. Amongst the *Persians*, after the due performance of Holy Rites, they contracted with *Cyrus* in manner following.

Thou, O Cyrus! *in the first place, shalt promise; That if any make War against the Persians, or seek to infringe the Liberty of the Laws, thou wilt with the utmost of thy power defend and protect this Country.* Which having promised, they presently add, *And we Persians promise to be aiding to keep all men in obedience, whilst thou defendest the Country.* *Zenophon* calls this agreement, *A Confederation*, as also *Isocrates* calls that which he writ of the Duties of Subjects towards their Princes, *A Discourse of Confederation.* The alliance or confederation was renewed every month between the Kings, and *Ephores* of *Sparta*, although those Kings were descended from the line of *Hercules*. And as these Kings did solemnly swear

Zenophon lib. 8. pæd.

Zenoph. in tract. de repub. Lacede.

to govern according to the Laws, ſo did the *Ephores* alſo to maintain them in their Authority, whilſt they performed their promiſe. Likewiſe in the *Roman* Kingdom, there was an Agreement between *Romulus* the Senate, and the People, in this manner: *That the People ſhould make Laws, and the King look they were kept: The People ſhould decree War, and the King ſhould manage it.* Now although many Emperors, rather by Force and Ambition, than by any lawful right, were ſeas'd of the *Roman* Empire, and by that which they call a Royal Law, attributed to themſelves an abſolute Authority, notwithſtanding by the Fragments which remain both in Books, and in *Roman* Inſcriptions, of that Law, it plainly appears, that power and authority was granted them to to preſerve and govern the Common-wealth, not to ruine and oppreſs it by Tyranny. Nay, all good Emperors have ever profeſſed, that they held themſelves tied to the Laws, and received the Empire from the Senate, to whoſe Determination they always referred the moſt important Affairs, and eſteemed it a great Error, without their Advice to reſolve on the Occaſions of the publick State.

If we take into our Conſideration the Condition of the Empires, Kingdoms and States of times, there is not any of them worthy of thoſe names, where there is not ſome ſuch Covenant or Confederacy between the People and the Prince. It is not long ſince, that in the Empire of *Germany*, the King of the *Romans* being ready to be crowned Emperor, was bound to do Homage, and make oath of Fealty to the Empire, no more nor leſs than as the Vaſſal is bound to do to his Lord when he is inveſted with his Fee. Although the form of the Words which he is to ſwear, have been ſomewhat altered by the Popes, yet notwithſtanding the ſubſtance ſtill remains the ſame. According to which we know that *Charles* the Fifth, of the Houſe of *Auſtria*, was under certain Conditions choſen Emperor, as in the ſame manner his Succeſſors were, the Sum of which was, that he ſhould keep the Laws already made, and make no new ones without the conſent of the Electors, that he ſhould govern the publick Affairs by the Advice of the general Eſtates, nor ingage any thing that belongs to the Empire, and other matters which are particularly recited by the Hiſtorians. When the Emperor is crowned at *Aquiſgrave*,

Specul. Saxon. lib. 3. Vrtic. 54

grave, the Arch-bishop of *Cullen* requires of him in the first place, if he will maintain the Church, if he will distribute Justice, if he will defend the Empire, and protect Widows, Orphans and all other worthy of Compassion: The which, after he hath solemnly sworn before the Altar, the Princes also which represent the Empire, are asked if they will not promise the same; neither is the Emperor anointed, nor receives the other Ornaments of the Empire, before he have first taken that solemn Oath. Whereupon it follows, that the Emperor is tied absolutely, and the Princes of the Empire, under condition. That the same is observed in the Kingdom of *Polonia*, no man will make question, who had but seen or heard of the Ceremonies and Rites wherewith *Henry* of *Anjou* was lately chosen and crowned King of that Country, and especially then when the Condition of maintaining of the two Religions, the Reformed and the *Roman*, was demanded, the which the Lords of the Kingdom in expres Terms required of him three several times, and he as often made promise to perform. The same is observed in the Kingdoms of *Bohemia*, *Hungary*, and others; the which we omit to relate particularly, to avoid Prolixity. *Sleyd. lib. 2. & 2.*

Now this manner of Stipulation is not only received in those Kingdoms where the right of Election is yet entirely observed; but even in those also which are esteemed to be simply hereditary. When the King of *France* is crowned, the Bishops of *Laon* and *Beauvois*, Ecclesiastical Peers, ask all the People there present, whether they desire and command, that he which is there before them, shall be their King? Whereupon he is said even then in the Stile of the Inauguration, to be chosen by the People: and when they have given the sign of consenting, then the King swears that he will maintain all the Rights, Priviledges, and Laws of *France* universally, that he will not aliene the Demean, and the other Articles, which have been yet so changed and accomodated to bad intentions, as they differ greatly from that Copy which remains in the Library of the Chapter of *Beauvois*, according to which it is recorded, that King *Philip*, the first of that Name, took his Oath at his Coronation; yet notwithstanding, they are not unfitly expressed: Neither is he girded with the Sword, nor anointed, nor crowned by the Peers (who at that

time wear Coronets on their Heads) nor receives the Scepter and Rod of Juſtice, nor is proclaimed King, before firſt the People have commanded it: neither do the Peers take their Oaths of Allegiance before he have firſt ſolemnly ſworn to keep the Laws carefully.

And thoſe be, that he ſhall not waſt the publick Revenue, that he ſhall not of his own proper Authority, impoſe any Taxes, Cuſtoms, or Tributes: That he ſhall not make Peace or War, nor determine of State Affairs, without the advice of the Council of State. Briefly, that he ſhould leave to the Parliament, to the States, and to the Officers of the Kingdom, their Authority intire, and all things elſe which have been uſually obſerved in the Kingdom of *France*. And when he firſt enters any City or Province, he is bound to confirm their Priviledges, and ſwears to maintain their Laws and Cuſtoms. This is ſtraightly obſerved in the Cities of *Tholouſe* and *Rochel*, and in the Countreys of *Daulpiny*, *Province* and *Britain*: The which Towns and Provinces have their particular and expreſs Covenants and Agreements with the Kings, which muſt needs be void, if the condition expreſſed in the Contract be not of force, nor the Kings tied to the performance.

In Annal. Burgund.

There is the Form of the Oath of the ancient Kings of *Burgundy*, yet extant in theſe Words: *I will protect all men in their Rights, according to Law and Juſtice.*

In *England*, *Scotland*, *Sweden* and *Denmark*, there is almoſt the ſame Cuſtom as in *France*; but in no place there is uſed a more diſcreet care in their manner of proceeding, than in *Spain*. For in the Kingdom of *Arragon*, after the finiſhing of many Ceremonies, which are uſed between him, which repreſents the *Juſtitia major* of *Arragon*, which comprehends the Majeſty of the Common-wealth, ſeated in a higher Seat, and the King, which is to be crowned, who ſwears Fealty, and does his Homage; and having read the Laws and Conditions, to the Accompliſhment whereof he is ſworn.

Nos qui valemos tanto como vos, y podemos mas que vos, vos elegimo[a] keo con eſtas è y eſtas conditiones, entra vos y nos un que monda mas que vos.

Finally, the Lords of the Kingdom uſe to the King theſe Words in the vulgar Language, as is before expreſſed, *pag.* 60. *We which are as much worth as You, and have more power than you, chuſe you King upon theſe and theſe Conditions, and there is one between*

tween you and us, which commands over you. But leaſt the King ſhould think he ſwore only for faſhion ſake, and to obſerve an old Cuſtom, every third year in full aſſembly of the Eſtates, the very ſame words, and in the ſame manner are repeated unto him.

And if under pretext of his Royal Dignity he become inſolent, violating the Laws, and neglect his publick Faith and promiſe given, then by the priviledge of the Kingdom, he is judged, excommunicated, as execrable as *Julian* the Apoſtate was by the Primitive Church: which excommunication is eſteemed of that validity, that inſtead of praying for the King in their publick Orations, they pray againſt him, and the ſubjects are by the ſame right acquit from their Oath of Allegiance: as the Vaſſal is exempted from obedience and obligation by oath to his Lord which ſtands excommunicated; the which hath been determined and confirmed both by Act of Counſel and Decree of State in the Kingdom of *Arragon*.

In Concil. Toletan. 4. c. 74. & in Tolet. 6. lib. 2. feud. tit. 28. ſect. 1.

In like manner, in the *Kingdom* of *Caſtile* in full aſſembly of the Eſtates, the King being ready to be *Crowned*, is firſt in the preſence of all *advertiſed* of his duty: and even then are read the Articles diſcreetly compoſed for the good of the Common-wealth, the King ſwears he will obſerve and keep them carefully and faithfully; which being done, then the *Conſtable* takes his Oath of Allegiance, after the Princes and Deputies for the Towns ſwear each of them in their order; and the ſame is obſerved in the Kingdoms of *Portugal*, *Leon*, and the reſt of *Spain*. The leſſer Principalities have their Inſtitution grounded on the ſame right. The *Contracts* which the *Brabancers* and the reſt of the *Netherlanders*, together with thoſe of *Auſtria*, *Carinthia*, and others, had with their Princes, were always conditional. But eſpecially the *Brabancers*, to take away all occaſion of diſpute, have this expreſs condition: which is that in the receiving of their Duke, there is read in his preſence the ancient Articles, wherein is comprized that which is requiſite for the publick good; and thereunto is alſo added, that if he do not exactly and preciſely obſerve them, they may chooſe what other Lord it ſhall ſeem good unto them; the which they do in expreſs words proteſt unto him. He having allowed and accepted of theſe *Articles*, doth in that *publick Aſſembly* promiſe and ſolemnly ſwear to keep them. The which was ob-

La Joyeuſe entree.

Ludovicus, Guicciard. in Discript. Belgiæ.

observed in the Reception of *Philip* the second, King of *Spain*. Briefly, there is not any man can deny, but that there is a Contract mutually obligatory between the King and the Subjects, which requires the People to Obey faithfully, and the King to Govern lawfully, for the performance whereof the King swears first, and after the People.

I would ask here, wherefore a man doth swear, if it be not to declare, that what he delivers, he sincerely intends from his Heart? Can any thing be judged more near to the Law of nature, than to observe that which we approve? Furthermore, what is the reason the *King* swears first, and at the Instance, and required by the *People*, but to accept a condition either tacite or expressed? Wherefore is there a condition opposed to the Contract, if it be not that in failing to perform the condition, the contract, according to Law, remains void? And if for want of satisfying the Condition by right, the contract is of no force: who shall dare to call that *People* perjured, which refuseth to obey a King which makes no account of his *Promise*, which he might and ought to have kept, and wilfully breaks those Laws which he did swear to observe? On the contrary, may we not rather esteem such a King perfidious, perjured, and unworthy of his Place? For if the Law free the Vassal from his Lord, who dealt felloniously with him, although that he to him: if the Law of the twelve Tables doth detest & hold in execration the Protector that defraudeth him that is under his tuition: if the civil Law permit an infranchised Servant to bring his Action against his Patron, for any grievous usage: if in such cases the same Law delivers the Slave from the power of his Master, although the Obligation be natural only, and not civil: is it not much more reasonable that the *People* be loosed from that Oath of Allegiance which they have taken, if the *King* (who may be not unfitly resembled by an Atturny, sworn to look to his Clients Cause) first break his Oath solemnly taked? And what if all these Ceremonies, solemn Oaths, nay, sacramental Promises had never been taken? Doth not Nature her self sufficiently teach, that *Kings* were on this condition ordained by the People, that they should govern well; Judges, that they should distribute Justice uprightly; Captains in the War, that they should lead their Armies against their Enemies? If on the contrary, they themselves forrage and spoil their

L. 1. D. Ac. pact. l. non minorum 20. D. de transact.

Lib. 2. fudor. tit. 26. Sect. 24. & tit. 47. Dionys. Halic. lib. 2.

their Subjects, and instead of Governors become Enemies, as they leave indeed the true and essential qualities of a King, so neither ought the people to acknowledge them for *lawful Princes*. But what if a people (you will reply) subdued by force, be compell'd by the King to take an Oath of Servitude? And what if a robber, pirate, or tyrant, (I will answer) with whom no bond of human Society can be effectual, holding his *Dagger* to your *Throat*, constrain you presently to become bound in a great sum of money? Is it not an *unquestionable Maxim* in *Law*, that a Promise exacted by *violence* cannot bind? especially if any thing be *promised* against *common reason*, or the *Law of nature*? Is there any thing more repugnant to nature and reason, than that a people should *manicle* and *fetter* themselves; and to be obliged by promise to the Prince, with their own *hands* and *weapons* to be their own *executioners*? There is therefore a *mutual obligation* between the *King* and the *people*, which whether it be *civil* or *natural* only, whether *tacit*, or *expressed in words*, it cannot by any means be *annihilated*, or by any Law be *abrogated*, much less by force made void. And this *obligation* is of such power, that the *Prince* which *wilfully violates* it, is a Tyrant: And the People which purposely breaks it, may be justly termed seditious. *Cicer. 1. Offic.*

Who may truly be called Tyrants?

Hitherto we have treated of a *King*, it now rests we do somewhat more fully describe a *Tyrant*. We have shewed that he is a *King*, which lawfully governs a *Kingdom*, either derived to him by *Succession*, or committed to him by *Election*. It follows therefore that he is reputed a *Tyrant*, which as opposite to a *King*, either gains a *Kingdom* by violence, or indirect means, or being invested therewith by *lawful election*, or *succession*, governs it not according to *law* and *equity*, or neglects those *contracts* and *agreements*, to the observation whereof he was strictly obliged at his *reception*. All which may very well occurr in one and the same person. The first is commonly called a *Tyrant without Title*: the second a *Tyrant by practise*. Now it may well so come to pass, that he which possesseth himself of a *Kingdom* by force, to govern justly, and he on whom it descends by a *lawful Title*, to rule unjustly. But for so much as a *Kingdom* is rather a *right* than an *inheritance*, and an *office* than a *possession*: he seems rather worthy the name of a *Tyrant*, which unworthily acquits himself of his charge, than he which *entered* into his place by a *wrong door*. In the *Aristo. lib. 5. polit. c. 10.* *Bartol. in tract. de tyrannide.*

the ſame *ſence* is the *Pope* call'd an *intruder* which enter'd by indirect means into the *papacy*: and he an *abuſer* which governs *ill* in it.

Pythagoras ſays, *That a worthy ſtranger is to be preferr'd before an unworthy Citizen, yea, though he be a Kinſman.* Let it be lawful alſo for us to ſay, that a Prince which gained his Principality by indirect courſes, provided he govern according to law, and adminiſter Juſtice equally, is much to be preferred before him: which carrieth himſelf tyranouſly, although he were legally inveſted into his Government with all the Ceremonies and Rites thereunto appertaining.

For ſeeing that Kings were inſtituted to feed, to judge, to cure the Diſeaſes of the people: Certainly I had rather that a Thief ſhould feed me, than a Shepheard devour me: I had rather receive juſtice from a Robber, than out-rage from a Judge: I had better be healed by an Empirick, than poyſoned by a Doctor in Phyſick. It were much more profitable for me to have my Eſtate carefully managed by an intruding Guardian, than to have it waſted and diſſipated by one legally appointed.

Zenophon. Plutarchius in Alexand. in Æmilico, Cæſare. Livius, lib. 1. Suetonius in Cæſare, c. 75.

And although it may be that ambition was his firſt ſolicitor, to enter violently into the *Government*, yet may it perhaps appear he affected it rather to give teſtimony of his equity and moderation in governing, witneſs *Cirus*, *Alexander*, and the *Romans*, which ordinarily accorded to thoſe people they ſubdued, permiſſion to govern themſelves according to their own Laws, Cuſtoms, and Priviledges, yea, ſometimes incorporated them into the body of their own ſtate: on the contrary, the Tyrant by practice ſeems to extend the priviledge of his legal ſucceſſion, the better to execute violence and extortion, as may be ſeen in theſe days, not only by the examples of the *Turks* and *Muſcovites*, but alſo in divers Chriſtian Princes: therefore the act of one which at the firſt was ill, is in ſome reaſonable time rectified by juſtice: whereas the other like an inveterate Diſeaſe, the elder it grows, the worſe it affects the Patient.

Auguſt. in lib. 4. c. 4. de civi. dei.

Now if according to the ſaying of Saint *Auguſtine*, thoſe Kingdoms where Juſtice hath no place, are but a rapſody of free-booters; they are in that, both the Tyrant without title, and he by practiſe alike, for that they are both Thieves, both Robbers, and both unjuſt poſſeſſors, as he certainly is no leſs an unjuſt detainer which takes another Mans Goods againſt the Owners

owers will, than he which employs it ill when it was taken before.

But the fault is without compariſon, much more greater of him which poſſeſſeth an eſtate for to ruine it, than of the other which made himſelf Maſter of it to preſerve it.

Briefly, the Tyrant by practiſe vainly colouring his unjuſt extortions with the juſtice of his Title, is much more blameable than the Tyrant without Title, who recompenceth the violence of his firſt intruſion in a continued courſe of a legal and upright Government.

Tyrants without Title.

But to proceed, there may be obſerved ſome difference amongſt Tyrants without Title: for there are ſome which ambitiouſly Invade their neighbours Countries, to enlarge their own, as *Nimrod*, *Minus*, and the *Canaanites* have done. Although ſuch are term'd Kings by their own people, yet to thoſe on whoſe confines they have encroached without any juſt right, or occaſion, they will be accounted Tyrants.

There be others which having attained to the government of an elective Kingdom, that endeavour by deceitful means, by corruption, by preſent, and other bad practiſes, to make it become hereditary. For witneſs whereof, we need not make ſearch into elder times; theſe are worſe than the former, for ſo much as ſecret fraud, as *Cicero* ſaith, *is ever more odious than open force.*

There be alſo others which are ſo horribly wicked, that they ſeek to enthral their own native Countrey like the viperous brood which gnaw through the entrals of their Mother: as be thoſe Generals of Armies created by the People, who afterwards by the means of thoſe forces make themſelves maſters of the Stage, as *Cæſar* at *Rome* under pretence of the Dictatorſhip, and divers Princes of *Italy*.

There be women alſo which intrude themſelves into the Government of thoſe Kingdoms which the Laws only permit to the Males, and make themſelves Queens and Regents, as *Athalia* did in *Judah*, *Semiramis* in *Aſſyria*, *Agripina* in the *Roman* Empire in the Reign of her Son *Nero*, *Mammea* in *Alexander Severus* his time, *Semiamira* in *Heliogabalus*'s; and certain *Brunichildes* in the Kingdom of *France*, who ſo educated their Sons [as the Queens of the houſe of *Medicis* in theſe latter times] during their minority,

that attaining to more maturity, their only care was to glut themselves in pleasures and delights: so that the whole management of affairs remain'd in the hands of their Mothers, or of their Minions, Servants and Officers. Those also are Tyrants without Title, who taking advantage of the sloath, weakness, and dissolute courses of those Princes which are otherwise lawfully instituted, and seeking to enwrap them in a sleepy dream of voluptuous idleness (as under the *French* Kings, especially those of the *Merovingian* line, some of the Mayors of the Palace have been advanced to that dignity for such egregious services) transferring into their own command all the Royal Authority, and leaving the King only the bare Name. All which Tyrants are certainly of this condition, that if for the manner of their Goverment they are not blameable: Yet for so much as they entered into that jurisdiction by tyrannous intrusion, they may justly be termed Tyrants without Title.

Tyrants by practise.

Concerning Tyrants by practise, it is not so easie to describe them as true Kings. For reason rules the one, and self-will the other: the first prescribes bounds to his affections, the second confines his desires within no limits, what is the proper Rights of Kings may be easily declared, but the outragious insolences of Tyrants cannot without much difficulty be express'd. And as a right angle is uniform, and like to it self one and the same: so an oblique diversifies it self into various and sundry species: In like manner is justice and equity simple, and may be deciphered in few words: but justice and injury are divers, and for their sundry accidents not to be so easily defined; but that more will be omitted then express'd. Now although there be certain rules by which these Tyrants may be represented (though not absolutely to the life:) yet notwithstanding there is not any more certain than by conferring and comparing a Tyrants fraudulent sleights with a Kings vertuous actions.

A Tyrant lops off those Ears which grow higher then the rest of the Corn, especially where Vertue make them most conspicuously eminent, oppresseth by calumnies, and fraudulent practises, the principal Officers of the State, gives out reports of intended conspiracies against himself, that he might have some colourable pretext to cut them off, witness *Tiberius*, *Maximinius*, and others, which spared not their own Kinsman, Cousins, and Brothers.

The

The King on the contrary doth not only acknowledge, his brothers to be as it were consorts unto him in the Empire: But also holds in the place of brothers all the principal Officers of the Kingdom, and is not ashamed to confess that of them (inquality as deputed from the general Estates) he holds the Crown.

The Tyrant advanceth above and in opposition to the ancient and worthy Nobility, mean and unworthy persons; to the end that these base fellows being absolutely his creatures, might applaud and apply themselves to the fulfilling of all his loose and unruly desires. The King maintains every man in his Rank, honours and respects the Grandees as the Kingdoms friends, desiring their good as well as his own.

The Tyrant hates and suspects discreet and wise men, and fears no opposition more than vertue, as being conscious of his own vitious courses, and esteeming his own security to consist principally in a general corruption of all estates, introduceth multiplicity of Taverns, Gaming-houses, Masks, Stage-plays, Brothel-houses, and all other licentious superfluities, that might effeminate and bastardize noble Spirits, as *Cyrus* did, to weaken and subdue the *Sardiens*: The King on the contrary allureth from all places honest and able men, and encourageth them by Pensions and Honours; and for Seminaries of vertue, erects Schools and Universities in all convenient places.

A Tyrant as much as in him lies, prohibites or avoids all publick Assemblies, fears Parliaments, Diets and meetings of the general Estates, flies the light, affecting (like the Bat) to converse only in darkness; yea, he is jealous of the very gesture, countenance, and discourse of his Subjects. The King because he converses always as in the presence of Men and Angels, glories in the multitude, and sufficiency of his Councellors, esteeming nothing well done which is ordered without their advice, and is so far from doubting or distasting the publick meeting of the general Estates, as he honours and respects those Assemblies with much favour and affection. *Machiavil in principe.* *Arist. lib. 5. c. 11. polit.*

A Tyrant nourisheth and feedeth factions and dissentions amongst his Subjects, ruins one by the help of another, that he may the easier vanquish the remainder, advantaging himself by this division, like those dishonest Surgeons which lengthen out their cures. Briefly, after the manner of that abominable *Vitellius*, he is not ashamed to say, that the Carkass of a dead Enemy,

especially a Subjects, yields a good savour. On the contrary, a good King endeavours always to keep Peace amongst his Subjects, as a father amongst his children, choak the seeds of troubles, and quickly heals the Scar; the execution even of justice upon Rebels, drawing tears from his compossionate eyes; yea, those whom a good King maintains and defends against a forrain enemy, a tyrant (the enemy of nature) compels them to turn the points of their Swords into their own proper intrals. A tyrant fils his Garrisons with strange Soldiers, builds Cittadels against his Subjects, disarms the people, throws down their Forts, makes himself formidable with guards of strangers, or men only fit for pillage and spoyl, gives Pensions out of the publick Treasury to spies and calumniating informers, disperst through all Cities and Provinces. Contrariwise, a King reposeth more his safety in the love of his Subjects, than in the strength of his Fortresses against his enemies, taking no care to inroll Soldiers, but accounts every Subject as a Man at Arms to guard him, and builds Forts to restrain the irruptions of forrain enemies, and not to constrain his Subjects to obedience, in whose fidelity he putteth his greatest confidence. Therefore it is that tyrants, although they have such numberless guards about them to drive off throngs of people from approaching them, yet cannot all those numbers secure them from doubts, jealousies and distrusts, which continually afflict and terrifie their timerous consciences: yea in the middest of their greatest strength, the Tyrannizer of Tyrants, Fear, maketh prize of their Souls, and there triumphs in their affliction. A good King in the greatest concourse of people, is freest from doubts or fears, nor troubled with sollicitous distrusts in his sollitary retirements, all places are equally secure unto him, his own conscience being his best guard. If a tyrant want civil broyls to exercise his cruel disposition in, he makes Wars abroad; erects idle and needless Trophees to continually imploy his tributaries, that they might want leisure to think on other things, as *Pharaoh* did the *Jews*, and *Policrates* the *Samians*; therefore he always prepares for, or threatens War, or at least seems so to doe, and so still rather draws mischief on, than puts it further off. A King never makes war, but compell'd unto it, and for the preservation of the publick; he never desires to purchase advantage by treason, he never entreth into any War that exposeth the Commonwealth to more danger than it affordeth probable hope of commodity.

Livi. lib. 2. c. 1. Dionys. Halic. l. 5. de Arunte filio porsennæ.

Prov. 14. 28.

Bartol. in tract de tyrannide.

Ægid. Rom. de reg. prin.

Cicero de Offic. lib. 1.

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A Tyrant leaves no design unattempted by which he may fleece his Subjects of their substance, and turn it to his proper benefit, that being continually troubled in gaining means to live, they may have no leisure no hope how to regain their liberty: On the contrary, the King knows that every good Subjects purse will be ready to supply the Commonwealths occasion, and therefore believes he is possest of no small treasure, whilst through his good Government his Subjects flow in all abundance.

A Tyrant extorts unjustly from many to cast prodigally upon two or three Minions, and those unworthy; he imposeth on all: and exacteth from all, to furnish their superfluous and riotous expences: he builds his own, and followers fortunes on the ruins of the publick: he draws out the peoples blood, by the Veins of their means, and gives it presently to carouse to his Court-leeches. But a King cuts off from his ordinary expences, to ease the peoples necessities, neglecteth his private state, and furnisheth with all magnificence the publick occasions; briefly is prodigal of his own blood, to defend and maintain the people committed to his care.

If a Tyrant as heretofore *Tiberius*, *Nero*, *Commodus* and others, did suffer his Subjects to have some breathing time from unreasonable exactions, and like Spunges to gather some moisture, it is but to squeeze them out afterwards to his own use: on the contrary, if a King do sometimes open a vein, and draw some blood, it is for the peoples good, and not to be expended at his own pleasure in any dissolute courses. And therefore as the holy Scripture compares the one to a *Shepherd*, so doth it also resemble the other to a roaring *Lyon*, to whom notwithstanding the *Fox* is oftentimes coupled. For a Tyrant as says *Cicero*, is *culpable in effect of the greatest injustice that may be imagined, and yet he carrieth it so cunningly, that when he most deceives, it is then that he maketh greatest appearance to deal sincerely.* And therefore doth he artificially counterfeit Religion and devotion, wherein saith *Aristotle*, he *expresseth one of the most absolute subtleties that Tyrants can possibly practise: he doth so compose his countenance to piety, by that means to terrifie the people from conspiring against him; who they may well imagine to be especially favoured of God, expressing in all appearance so reverently to serve him.* He fains also to be exceedingly affected to the publick good; not so much for the love of it, as for fear of his own safety.

Prov. 8. 15.

Cier. de Offic. lib. 1.

Arist. lib. 5. polit. c. 11.

Furthermore he desires much to be esteemed just, and loyal in some Affairs, purposely to deceive and betray more easily in matters

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ters of greater consequence: much like those thieves which maintain themselves by Thefts and Robberies, cannot yet long subsist in their Trade, without exercising some parcel of justice in their proceedings. He also counterfeits the merciful, but it is in pardoning of such Malefactors, in punishing whereof he might more truly gain the reputation of a pitiful Prince.

To speak in a word, that which the true King is, the Tyrant would seem to be, and knowing that men are wonderfully attracted with, and inamoured of vertue, he endeavours with much subtilty to make his Vices appear yet masked with some shadow of vertue: but let him counterfeit never so cunningly, still the Fox will be known by his Tail: and although he fawn and flatter like a Spannel, yet his snarling and grinning will ever bewray his currish kind.

Tho. Aquin. in secund. q. 12. art. 11.

Furthermore, as a well-ordered Monarchy partakes of the principal Commodities of all other Governments: So on the contrary, where Tyranny prevails, there all the discommodities of confusion are frequent.

A Monarchy hath in this, conformity with an Aristocracy, that the most able and discreet are called to Consultations: Tyranny and Oligarchy accord in this, that their Councels are composed of the worst and most corrupted. *And as in the Councel Royal, there may in a sort seem many Kings to have interests in the Government, so in the other on the contrary, a multitude of Tyrants always domineers.*

The Monarchy borrows of the popular Government the Assemblies of the Estates, whither are sent for Deputies the most sufficient of Cities and Provinces, to deliberate of, and determine matters of State: the Tyranny takes this of the Ochlocracy, that if she be not able to hinder the Convocation of the Estates, yet will she endeavour by factious subtilties and pernicious Practices, that the greatest Enemies of Order and Reformation of the State be sent to those Assemblies, the which we have known practised in our times. In this manner assumes the Tyrant the Countenance of a King, and Tyranny the semblance of a Kingdom, and the continuance succeeds commonly according to the dexterity wherewith it is managed; yet, as *Aristotle* says, *we shall hardly read of any Tyranny that hath out-lasted a hundred years: briefly the King principally regards the publick utility, and a Tyrants chiefest care is for his private Commodity.*

But seeing the condition of men is such, that a King is with much difficulty

difficulty to be found, that in all his actions only agreeth at the publique good, and yet cannot long subsist without expression of some special care thereof, we will conclude that where the Common-wealths advantage is most preferr'd, there is both a lawful King and Kingdom; and where particular designs and private ends prevail against the publique profit, there questionless is a Tyrant and Tyranny.

Thus much concerning Tyrants by practise, in the examining whereof we have not altogether fixed our discourse on the loose disorders of their wicked and licentious lives a, which some say is the character of a bad Man: but not always of a bad Prince. If therefore the Reader be not satisfied with this description, besides the more exact representations of Tyrants which he shall find in Histories he may in these our days behold an absolute model of many living and breathing Tyrants: whereof *Aristotle* in his time did much complain. Now at the last we are come as it were by degrees to the chief and principal point of the question. We have seen how that Kings b have been chosen by God, either with relation to their Families or their persons only, and after installed by the People: In like manner what is the duty of the King, and of the Officers of the Kingdom, how far the authority, power, and duty both of the one and the other extends, and what and how sacred are the Covenants and Contracts which are made at the inauguration of Kings, and what Conditions are intermixt, both tacite and express'd; finally who is a Tyrant without Title, and who by practise, seeing it is a thing unquestionable that we are bound to obey a lawful King, which both to God and People carrieth himself according to those Covenants whereunto he stands obliged, as it were to God himself, seeing in a sort he represents his divine Majesty: It now follows that we treat, how, and by whom a Tyrant may be lawfully resisted, and who are the persons that ought to be chiefly actors therein, and what course is to be held, that the action may be manag'd according to right & reason: we must first speak of him which is commonly called a Tyrant without Title. Let us suppose then that some *Ninus* having neither received outrage nor offence, invades a people over whom he hath no colour of pretension: that *Cæsar* seeks to oppress his Country c, and the *Roman* Common-wealth: that *Popiclus* endeavours by Murthers and Treasons to make the Elective Kingdom of *Polonia* to become hereditary

a *Bartol. in Tract. de tiran. & de regim. Civi.*

b To whom it belongs to resist and suppress Tyrants without Title.

c *Otto Frising. Chron.* l. 3. c. 7.

Aimoni. lib. 4. c. 1. *Gre. Turon.* lib. 4. c. 51. lib. 5. c. 39. lib. 8. c. 29.

hereditary to him and his posterity: or some *Brunichilde* draws to her self and her Protadius the absolute Government of *France*: or *Ebronius*, taking advantage of *Theodericks* weakness and idleness, gaineth the intire administration of the State, and oppresseth the People, what shall be our lawful refuge herein?

First, the Law of Nature teacheth and commandeth us to maintain and defend our lives and liberties, without which life is scant worth the enjoying, against all injury and violence. Nature hath imprinted this by instinct in Dogs against Wolves, in Bulls against Lions, betwixt Piggons and Spar-hawks, betwixt Pullen and Kites, and yet much more in Man against Man himself, if Man become a Beast: and therefore he which questions the lawfulness of defending ones self, doth as much as in him lies question the Law of Nature. To this must be added the Law of Nations, which distinguisheth Possessions and Dominions, fixes limits, and makes out confines, which every Man is bound to defend against all Invaders. And therefore it is no less lawful to resist *Alexander* the Great, if without any right or being justly provoked, he invades a Country with a mighty Navy; as well as *Diomedes* the Pirate which scours the Seas in a small Vessel. For in this case *Alexanders* right is no more than *Diomedes* his, but only he hath more power to do wrong, and not so easily to be compell'd to reason as the other. Briefly, one may as well oppose *Alexander* in pillaging a Country, as a Thief in purloining a Cloak, as well him when he seeks to batter down the Walls of a City, as a Robber that offers to break into a private house. There is besides this, the Civil Law, or municipal Laws of several Countries which governs the Societies of men, by certain rules, some in one manner, some in another; some submit themselves to the Government of one man, some to more; others are ruled by a whole Commonalty, some absolutely exclude Women from the Royal Throne, others admit them, these here chuse their King descended of such a Family, those there make Election of whom they please, besides other Customs practised amongst several Nations. If therefore any offer either by fraud or force to violate this Law, we are all bound to resist him, because he wrongs that Society to which we owe all that we have, and would run our Countrey, to the preservation whereof all men by nature, by law and by solemn Oath are strictly obliged: insomuch that fear or negligence, or bad purposes, make us omit this

this dutie, we may justly be accounted breakers of the Laws, betrayers of our Countrey, and contemners of Religion. Now as the Law of Nature, of Nations, and the civil commands us to take Arms against such Tyrants; so is there not any manner of Reason that should perswade us to the contrary; neither is there any Oath, Covenant, or Obligation, publick or private, of power justly to restrain us; therefore the meanest private Man may resist and lawfully oppose such an Intruding Tyrant. The Law *Julia*, which condemns to death those that raise Rebellion against their Countrey or Prince, hath here no place; for he is no Prince, which without any Lawful Title Invadeth the Common-wealth, or Confines of another; nor he a Rebel, which by Arms defends his Countrey; but rather to this had relation the Oath which all the Youth of *Athens* were accustomed to take in the Temple of *Aglaura*, I will Fight for Religion, for the Laws, for the Altars, and for our Possessions, either alone, or with others; and will do the utmost of my Endeavour, to leave to posterity our Countrey, at the least, in as good estate as I found it. To as little purpose can the Laws made against Seditious Persons be alledged here; for he is Seditious which undertakes to defend the People, in Opposition of order and publick Discipline; but he is no raiser, but a suppressor of Sedition, which restraineth within the Limits of Reason, the subverter of his Conntreys Welfare, and publick Discipline.

L. ult. D. ad. leg. Jul. Majestatis.

Bartol. in tract. de Guelph. & Gibellin.

On the contrary to this, hath proper relation the Law of *Tyranacides*, which honours the living with great and memorable recompences, and the dead with worthy Epitaphs, and glorious Statues, that have been ther Countreys Liberators from Tyrants; as *Harmodius* and *Aristogiton* at *Athens*, *Brutus* and *Cassius* in *Greece*, and *Aratus* of *Sycione*. To these by a publick Decree were erected Statues, because they delivered their Countreys from the Tyranies of *Pisistratus*, of *Cæsar*, and of *Nicocles*. The which was of such Respect amongst the Antients, that *Zerxes* having made himself Master of the City of *Athens*, caused to be transported into *Persia* the Statues of *Harmodius* and *Aristogiton*; afterwards *Seleucus* caused them to be returned into their former place: and as in their passage they came by *Roades*, those famous Citizens entertained them with publick and stupendious solemnities, and during their abode there, they placed them in the choicest sacrestie of their gods. But the Law made against Forsakers, and Traytors,

Plin. lib. 4. Alexand. ab Alex. lib. 6. cap. 4.

Ziphilm. in vita August.

Plutarch. in Arato.

Valer. Maxim. lib. 2. c. ultim.

takes absolutely hold on those which are negligent and careless to deliver their Countrey oppressed with Tyranny, and condemns them to the same punishment, as those Cowardly Soldiers, which when they should Fight, either counterfeit Sickness, or cast off their Arms and run away. Every one therefore both in general and particular, ought to yield their best assistance unto this: as in a publick Fire, to bring both Hooks, and Buckets and Water; we must not ceremoniously expect that the Captain of the Watch be first called, nor till the Governour of the Town be come into the Streets; but let every man draw Water and climb to the House-top; it is necessary for all men that the Fire be quenched. For if whilst the *Gaules* with much silence and vigilancy seek to scale and surprise the *Capitoll*, the Soldiers be drowsie with their former pains, the Watch buried in sleep, the Dogs fayl to bark, then must the Geese play the Sentinels, and with their gagling noise, give an Alarm. And the Soldiers and Watch shall be degraded, yea, and put to death: The Geese for perpetual remembrance of this deliverance, shall be always fed in the *Capitoll*, and much esteemed.

L. 3 & l. Omne delictum. *ff.* ult. D. de re milit.

This of which we have spoken, is to be understood of a Tyranny not yet firmly rooted, to wit, whilst a Tyrant conspires, machinates, and lays his plots and practises. But if he be once so possessed of the State, and that the People being subdued, promise and swear obedience; the Common-wealth being oppressed, resign their authority into their hands; and that the Kingdom in some formal manner, consent to the changing of their Laws; for so much certainly as then, he hath gained a title which before he wanted, and seems to be as well a legal as actual possessor thereof, although this Yoke were laid on the Peoples Neck by compulsion, yet must they quietly and peaceably rest in the will of the Almighty, who at his pleasure transfers Kingdoms from one Nation to another; otherways there should be no Kingdom, whose Jurisdiction might not be disputed: And it may well chance, that he which before was a Tyrant without Title, having obtained the Title of a King, may free himself from any Tyranous Imputation, by governing those under him with Equity and Moderation. Therefore then as the People of *Jurie*, under the Authority of King *Ezechias*, did Lawfully resist the Invasion of *Senacherib* the *Assyrian*: So on the contrary was *Zedechias* and all his Subjects

2 Kings 24. and 25. Jerem. 37.

jects worthily punished, because that without any just occasion, after they had done homage and sworn fealty to *Nebuchadnezzar*, they rise in Rebellion against him. For after promise of Performance, it is too late to repent And as in battles every one ought to give Testimony of his Valour, but being taken Prisoner, must faithfully observe Covenants; so it is requisite, that the People maintain their Rights by all possible means; but if it chance that they be brought into the subjection of anothers Will, they must then patiently support the dominion of the Victor. So did *Pompey*, *Cato* and *Cicero*, and others, perform the parts of good Patriots then when they took Arms against *Cæsar*, seeking to alter the government of the State; neither can those be justly excused, whose base fear hindred the happy success of *Pompey* and his partakers noble designs. *Augustus* himself is said to have reproved one who railed on *Cato*, affirming that he carried himself worthily and exceedingly affected to the greatness of his Country, in couragiously opposing the Alteration which his Contraries sought to introduce in the Government of the State, seeing all innovations of that Nature, are ever Authors of much Trouble and Confusion.

Furthermore, No man can justly reprehend *Brutus*, *Cassius*, and the rest who killed *Cæsar* before his Tyrannical Authority had taken any firm rooting. And so were there Statues of Brass Erected in honour of them by publick decree at *Athens*, and placed by those of *Harmodius* and *Aristogiton*, then when after the dispatching of *Cæsar* they retired from *Rome*, to avoid *Mar. Antonie* and *Augustus* their revenge. But *Cinna* was certainly guilty of sedition, who after a legal transferring of the Peoples power into the hands of *Augustus*, is said to conspire against him. Likewise when the *Pepins* sought to take the Crown of *France* from the *Merovingians*: as also when those of the line of *Capet* endeavoured to supplant the *Pepins*, any might lawfully resist them without incurring the Crime of Sedition: But when by publick Counsel and the Authority of the Estates, the Kingdom was transferred from one family to another, it was then unlawful to oppose it. The same may be said, if a Woman possess her self of the Kingdom, which the Salick Law absolutely prohibites, or if one seek to make a Kingdom meerly Elective, hereditary to his offspring, while those Laws stand in force, and are unrepealed by

the Authority of the general Estates, which represent the body of the People. Neither is it necessary in this respect, to have regard whether faction is the greater, more powerful or more illustrious. Always those are the greater number who are led by Passion, than those that are ruled by Reason, and therefore tyranny hath more servants than the Common-wealth. But *Rome* is there according to the saying of *Pompey*, where the Senate is, and the Senate is where there is obedience to the Laws, love of Liberty, and studious carefulness for the Countries Preservation. And therefore, though *Brennus* may seem to be Master of *Rome*, yet notwithstanding is *Rome* at veies with *Camillus*, who prepares to deliver *Rome* from bondage. It behoovs therefore all true *Romans* to repair to *Camillus*, and assist his Enterprize with the utmost of their power and endeavours. Although *Themistocles*, and all his able and worthiest Companions leave *Athens*, and put to Sea with a Navy of two hundred Gallies, notwithstanding it cannot be said, that any of these men are banished *Athens*, but rather, as *Themistocles* answered, These two hundred Gallies are more useful for us, than the greatest City of all *Greece*; for that they are armed, and prepared for the defence of those which endeavour to maintain and uphold the publick State.

Plutarch. in vita Themist.

But to come to other examples; it follows not that the Church of God must needs be always in that place where the Ark of the Covenant is; for the *Philistines* may carry the Ark into the Temples of their Idols. It is no good Argument, that because we see the *Roman Eagles* waving in Ensigns, and hear their Legions named, that therefore presently we conclude, that the Army of the *Roman* Common-wealth is there present; for there is only, and properly the Power of the State where they are assembled, to maintain the liberty of the Countrey against the ravenous oppression of Tyrants, to infranchise the People from servitude, and to suppress the impudency of insulting flatterers, who abuse the Princes weakness by oppressing his Subjects for the advantaging of their own fortunes, and contain ambitious Minds from enlarging their desires beyond the limits of Equity and Moderation. Thus much concerning Tyrants without Title.

What may lawfully be done against Tyrants by practise.

But for Tyrants by practise, whether they at first gained their Authority by the Sword, or were legally invested therewith by a general consent: It behooves us to examine this point with much

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wary circumspection. In the first place we must remember, that all Princes are born men, and therefore reason and passion are as hardly to be separated in them, as the Soul is from the body whilst the man liveth: We must not then expect Princes absolute in perfection, but rather repute our selves happy if those that govern us be indifferently good. And therefore although the Prince observe not exact mediocrity in State-Affairs; if sometimes Passion over-rule his reason, if some careless Omission, make him neglect the Publick Utility; or if he do not always carefully execute Justice with Equality, or repulse not with ready Valour an invading enemy; he must not therefore be presently declared a Tyrant. And certainly, seeing he rules not as a God over men, nor as men over beasts, but is a Man composed of the same matter, and of the same nature with the rest: As we would questionless judge that Prince unreasonably insolent, that should insult over and abuse his Subjects; as if they were bruit Beasts; so those People are doubtless as much void of Reason, which imagine a Prince should be compleat in Perfection, or expect divine abilities in a nature so frail and subject to Imperfections. But if a Prince purposely Ruine the Common-weal, if he presumptuously pervert and resist Legal Proceedings, or Lawfull Rights, if he make no reckoning of Faith, Covenants, Justice nor Piety, if he Prosecute his Subjects as Enemies; briefly, If he express all or the chiefest of those wicked Practises we have formerly spoken of; then we may certainly declare him a Tyrant, which is as much as an Enemy both to God and Men. We do not therefore speak of a Prince less good, but of one absolute bad; not of one less wise, but of one Malicious and Treacherous; not of one less able judiciously to discuss Legal Differences, but of one perversly bent to pervert Justice and Equity; not of an unwarlike, but of one furiously disposed to ruine the People, and ransack the State. For the Wisdom of a Senate, the Integrity of a Judge, the Valour of a Captain, may peradventure enable a weak Prince to Govern well: But a Tyrant could be content that all the Nobility, the Councellors of State, and Commanders for the Wars, had but one head that he might take it off at one blow: those being the proper objects of his distrust and fear, and by consequence the principal subjects on whom he desires to execute his Malice and Cruelty. A Foolish Prince, although (to speak according to right

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and Equity) he ought to be depoſed, yet may he perhaps in ſome ſort be born withal: But a Tyrant the more he is tollerated, the more he becomes intollerable.

Furthermore, as the Princes pleaſure is not always law, ſo many times it is not expedient that the People doe all that which may lawfully be done: for it may often-times chance, that the Medicine proves more dangerous than the Diſeaſe. Therefore it becomes wiſe men, to try all ways before they come to blows, to uſe all other remedies before they ſuffer the Sword to decide the Controverſie. If then thoſe which repreſent the Body of the People, foreſee any Innovation or Machination againſt the State, or that it be already embarqued into a courſe of Perdition; their duty is, firſt to admoniſh the Prince, and not to attend, that the diſeaſe by acceſſion of time and accidents, becomes unrecoverable. For Tyranny may be properly reſembled unto a Feaver Hectick, the which at the firſt is eaſie to be cured, but with much difficulty to be known; but after it is ſufficiently known, it becomes uncurable. Therefore ſmall beginnings are to be carefully obſerved, and by thoſe whom it concerns diligently prevented.

If the Prince therefore perſiſt in his violent courſes, and contemn frequent admonitions, addreſſing his deſigns only to that end, that he may oppreſs at his pleaſure, and effect his own deſires without fear or reſtraint; he then doubtleſs makes himſelf liable to that deteſted crime of *Tyranny*: and whatſoever either the law, or lawful authority permits againſt a Tyrant, may be lawfully practiſed againſt him. Tyranny is not onely a will, but the chief, and as it were the complement and abſtract of vices. A Tyrant ſubverts the State, pillages the people, lays ſtratagems to entrap their lives, breaks promiſe with all, ſcoffs at the ſacred Obligations of a ſolemn Oath, and therefore is he ſo much more vile than the vileſt of uſual Malefactors, by how much offences committed againſt a generality, are worthy of greater puniſhment than thoſe which concern only particular and private perſons. If Thieves and thoſe that commit Sacriledge, be declared Infamous; nay, if they juſtly ſuffer Corporal puniſhment by Death, can we invent any that may be worthily equivalent for ſo outragious a Crime?

Furthermore, we have already proved, that all Kings receive their

their Royal Authority from the people, that the whole people conſider'd in one body, is above and greater than the King; and that the King and Emperour are only the prime and ſupream Governours and Miniſters of the Kingdom and Empire; but the People the abſolute Lord and Owner theeeof. It therefore neceſſarily follows, that a Tyrant is in the ſame manner guilty of rebellion againſt the Majeſtey of the people, as the Lord of a fee, which Felloniouſly tranſgreſs the Conditions of his Inveſtitutes, and is liable to the ſame puniſhment, yea, and certainly deſerves much more greater than the equity of thoſe Laws inflict on the delinquents. Therefore as *Barclus* ſays, He may either be depoſed by thoſe which are Lords in Soveraignty over him, or elſe juſtly puniſhed according to the Law *Julia*, which condemns thoſe which offer Violence to the publick. The body of the people muſt needs be the Soveraign of thoſe which repreſent it, which in ſome places are the Electors, Palatines, Peers; in other, the Aſſembly of the general Eſtates. And if the Tyranny have gotten ſuch ſure footing, as there is no other means but force to remove him; then it is lawful for them to call the people to Arms, to Inroll and raiſe Forces, and to imploy the utmoſt of their power, and uſe againſt him all advantages and ſtratagems of War, as againſt the Enemy of the Common-wealth, and the Diſturber of the Publick Peace. Briefly, the ſame ſentence may be juſtly pronounced againſt him, as was againſt *Manlius Capitolinus* at *Rome*. *Thou waſt to me Manlius, when thou didſt tumble down the Gaules that ſcaled the Capitole: But ſince thou art now become an Enemy, like one of them, thou ſhalt be precipitated down from the ſame place from whence thou formerly tumbledſt thoſe Enemies.*

In tract. de tyran. & in tract. de Regim civit.

Valerius lib. 9. c. 3.

The Officers of the Kingdom cannot for this be rightly taxed of Sedition; for in a Sedition there muſt neceſſarily concur but two parts, or ſides, the which peremptorily conteſt together; ſo that it is neceſſary that the one be in the right, and the other in the wrong: That part undoubtedly hath the right on their ſide, which defends the Laws, and ſtrives to advance the publick profit of the Kingdom. And thoſe on the contrary are queſtionleſs in the wrong, which break the Laws, and protect thoſe that violate Juſtice, and oppreſs the Common-wealth. Thoſe are certainly in the right way, as ſaid *Bartolus*, which endeavour to ſuppreſs Tyrannical Government, and thoſe in the wrong, which oppoſe

Bart. in tract. de Guelph. & Gibell. arg. l. 3. Sect. cum igitur D. de vi & viar.

pose lawful authority: And that must ever be accounted just, which is intended only for the publick benefit, and that unjust, which aims chiefly at private commodity. Wherefore *Thomas Aquinas* saith, *That a tyrannical rule having no proper addresse for the publick welfare, but only to satisfie a private will, with increase of particular profit to the ruler, cannot in any reasonable construction be accounted lawful, and therefore the disturbance of such a Government cannot be esteemed Seditious, much lesse Traytors*; for that offence hath proper relation only to a lawful Prince, who indeed is an inanimated or speaking Law; therefore seeing that he which employs the utmost of his means and power to annihilate the Laws, and quell their vertue and vigour, can no ways be justly Intituled therewith: So neither likewise can those which oppose and take Arms against him, be branded with so notorious a Crime. Also this offence is committed against the Common-wealth; but for so much as the Common-wealth is there only where the Laws are in force, and not where a Tyrant devours the State at his own pleasure and liking, he certainly is quit of that Crime which ruins the Majesty of the publique State, and those questionless are worthily protectors and preservers of the Common-wealth, who confident in the lawfulness of their Authority, and summoned thereunto by their duty, do couragiously resist the unjust proceedings of the Tyrant.

Tho. Aquin. sec. secund. q. 12. art. 11. in fine.

I. 1. D. ad leg. Iul. majest.

Cic. parad. 4.

And in this their Action we must not esteem them as private Men and Subjects, but as the representative body of the People, yea, and as the Soveraignty it self, which demands of his Minister an account of his Administration. Neither can we in any good reason account the Officers of the Kingdom Disloyal, who in this manner acquit themselves of their charge.

There is ever, and in all places, a mutual and reciprocal obligation between the People and the Prince; the one promiseth to be a good and wise Prince, the other to obey faithfully, provided he Govern justly. The People therefore is obliged to the Prince under condition: The Prince to the People simply and purely. Therefore if the Prince fail in his Promise, the People is exempt from Obedience, the Contract is made void, the Right of Obligation of no force. Then the King if he Govern unjustly, is Perjur'd, and the People likewise Forsworn if they obey not his lawful commands: But that People is truly acquit from all Perfidiousness, which

which publickly renounce the unjuſt dominion of a Tyrant, or he ſtriving unjuſtly by ſtrong hand to continue the poſſeſſion, do conſtantly endeavour to expulſe him by force of Arms.

It is therefore permitted the Officers of a Kingdom, either all, or ſome good number of them, to ſuppreſs a Tyrant; and it is not only lawful for them to do it, but their Duty expreſly requires it; and if they do it not, they can by no excuſe colour their Baſeneſs. For the *Electors*, *Palatines*, *Peers*, and other Officers of State, muſt not think they were eſtabliſhed only to make pompeous Paradoes and Shows, when they are at the Coronation of the King, habited in their Robes of State, as if there were ſome Maſque or Interlude to be repreſented; or as if they were that day to act the parts of *Roland*, *Oliver*, or *Renaldo*, and ſuch other perſonages on a Stage, or to counterfeit and revive the memory of the Knights of the round Table; and after the diſmiſſing of that days Aſſembly, to ſuppoſe they have ſufficiently acquit themſelves of their Duty, until a receſs of the like ſolemnity. Thoſe ſolemn Rites and Ceremonies were not inſtituted for vain oſtentation, nor to paſs, as in a dumb ſhow, to pleaſe the Spectators, nor in Childrens ſports, as it is with *Horace*, to create a King in jeſt; but thoſe Grandees muſt know, that as well for Office and Duty, as for Honour, they are called to the performance of thoſe Rites, and that in them, the Common-wealth is committed and recommended to the King, as to her ſupream and principal Tutor and Protector, and to them as Co-adjutors and Aſſiſtants to him: and therefore, as the Tutors or Guardians (yea, even thoſe that are appointed by way of honour) are choſen to have care of, & obſerve the actions and importments of him which holds the principal rank in the Tutorſhip, and to look how he carrieth himſelf in the Adminiſtration of the goods of his Pupil: So likewiſe are the former ordained to have an Eye to the courſes of the King, for with an equivalent Authority, as the others for the Pupil, ſo are they to hinder and prevent the Damage and Detriment of the People, the King being properly reputed as the prime Guardian, and they his Co-adjutors.

L. 106. D. de reg. jur.

Vip. l. 3. D. de adm. & peric. tut. & curat.

L. 27. D. con.

In like manner, as the faults of the principal Tutor who manages the Affairs, are juſtly imputed to the Co-adjoynts in the Tutorſhip, if when they ought and might; they did not diſcover his Errors, and cauſe him to be depoſed, eſpecially failing in the main

L. 14 D. de adminiſt. et peric tut. l. 3 D. de ſuſpec. tut. & cur.

points of his charge, to wit, in not communicating unto them the affairs of his administration, in dealing unfaithfully in his place, in doing any thing to the dishonour or detriment of his Pupil, in imbesilling of his Goods or Estate, or if he be an Enemy to his Pupil, briefly, if either in regard of the worthlesnes of his Person, or weakness of his judgment, he be unable well to discharge so weighty a charge. So also are the Peers and principal Officers of the Kingdom accountable for the Government thereof, & must both prevent, and if occasion require, suppress the Tyranny of the Prince, as also supply with their care and diligence, his inability and weakness.

Finally, If a Tutor omitting or neglecting to do all that for his Pupil, which a discreet Father of a family, would and might conveniently perform, cannot well be excused, and the better acquitting himself of his charge, hath others as concealers and Associates, joyned with him to oversee his actions, with much more reason may, and ought the Officers of the Crown restrain the violent irruptions of that Prince, who instead of a Father, becomes an Enemy to his People; seeing to speak properly, they are as well accountable for his actions wherein the publick hath Interests, as for their own.

l. 10. & 33. D. deadm. & peric. tutor & Cur.

Those Officers must also remember, that the King holds truly the first place in the Administration of the State, but they the second, and so following according to their ranks; not that they should follow his courses, if he transgres the Laws of Equity and Justice; not that if he oppress the Common-wealth, they should connive to his Wickedness. For the Common-wealth was as well committed to their care as to his, so that it is not sufficient for them to discharge their own duty in particular, but it behooves them also to contain the Prince within the limits of reason, briefly they have both joyntly and severally promised with solemn Oaths, to advance and procure the profit of a Common-wealth, although then that he forswore himself; yet may not they imagine that they are quit of their promise, no more than the Bishops and Patriarks, if they suffer an heretical Pope to ruine the Church; yea they should esteem themselves so much the more obliged to the observing their Oath, by how much they find him wilfully dispos'd to rush on in his perfidious courses. But if there be collusion betwixt him and them, they are prevaricators, if they dissemble, they

they may justly be called forsakers and traytors, if they deliver not the Common-wealth from Tyranny, they may be truly rankt in the number of Tyrants; as on the contrary they are Protectors, Tutors, and in a sort Kings, if they keep and maintain the State safe and intire, which is also recommended to their Care and Custody.

Although these things are sufficiently certain of themselves, yet may they be in some sort confirmed by Examples. The Kings of *Canaan* which pressed the People of *Israel* with a hard, both corporal and spiritual Servitude, (prohibiting them all meetings and use of Arms) were certainly Tyrants by Practice, although they had some Pretext of title. For, *Eglon* & *Jabin* had peaceably reigned almost the space of twenty years, God stirred up extraordinarily *Ehud*, which by a politick Stratagem killed *Eglon*, and *Deborah* which overthrew the Army of *Jabin*, and by his service delivered the People from the servitude of Tyrants, not that it was unlawful for the ordinary Magistrates, the Princes of the Tribes, and such other Officers to have performed it, for *Deborah* doth reprove the sluggish idleness of some, and flatly detests the disloyalty of others, for that they failed to perform their duty herein. But it pleased God, taking Commiseration of the distress of his People, in this manner to supply the defects of the ordinary Magistrates. Judg. 4, & 3.

Rehoboam the Son of *Solomon*, refused to disburthen the People of some unnecessary impost and burthens; and being Petitioned by the People in the general Assembly of the States, *He grew insolent, and relying on the Counsel of his Minions, arrogantly threatens to lay heavier burthens on them hereafter.* No man can doubt, but that according to the tenour of the Contract, first passed between the King and the People, the prime and principal Officers of the Kingdom had authority to repress such Insolence. They were only blameable in this, that they did that by faction and division, which should more properly have been done in the general Assembly of the States; in like manner, in that they transferred the Scepter from *Juda* (which was by God only confirm'd to that Tribe) into another linage; and also, (as it chances in other affairs) for that they did ill and disorderly manage a just and lawful cause. Prophane Histories are full of such Examples in other Kingdoms. 1 King 12. 6, &c.

Brutus General of the Soldiers, and *Lucretius* Governour of the City of *Rome*, assembled the People against *Tarquinius Superbus*, and by their Authority thrust him from the Royal Throne : Nay, which is more, his Goods are Confiscated ; whereby it appears that if *Tarquinius* had been Apprehended, undoubtedly he should have been according to the publique Laws, corporally punished. *Titus Livi. lib. 1.*

The true causes why *Tarquinius* was deposed, were because he altered the Custom, whereby the King was Obliged to Advise with the Senate on all weighty Affairs, that he made War & Peace according to his own fancy ; that he treated Confederacies without demanding Counsel or Consent from the People or Senate ; that he violated the Laws whereof he was made Guardian ; briefly that he made no reckoning to observe the Contracts agreed between the former Kings, and the Nobility and People of *Rome*: For the *Roman* Emperors, I am sure you remember the Sentence pronounced by the Senate against *Nero*, wherein he was judged an Enemy to the Common-wealth, and his Body condemned to be ignominiously cast on the Dung-hill : And that other pronounced against *Vitellius*, which adjudge him to be shamefully dis-membred, and in that miserable estate trayled through the City, and at last put to death: Another against *Maximinius*, who was despoild of the Empire ; and *Maximus* and *Albinus* Established in his place by the Senate. There might also be added many others drawn from unquestionable Historians.

The Emperour *Trajan* held not himself exempt from Laws, neither desired he to be spared if he became a Tyrant; for in delivering the Sword unto the great Provost of the Empire, he says unto him ; *If I command as I should, use this Sword for me : but if I do otherways, unsheath it against me.* In like manner the *French* by the Authority of the States, and solicited thereunto by the Officers of the Kingdom, deposed *Childerick* the first, *Sigisbert*, *Theodorick*, and *Childerick* the third, for their Tyranies, and chose others of another Family to sit on the Royal Throne. Yea, they deposed some because of their Idleness and want of Judgment, who exposed the State in prey to Panders, Courtesants, Flatterers, and such other unworthy Mushromes of the Court, who governed all things at their pleasure ; taking from such rash *Phaetons* the Bridle of Government, lest the whole body of the State and People

people should be consumed through their unadvised Folly.

Amongst others, *Theodoret* was Degraded because of *Ebroinus* *Dagobert* for *Plectude* and *Thibaud* his Pander, with some others: the Estates esteeming the command of an effeminate Prince, as insupportable as that of a Woman, and as unwillingly supporting the yoke of Tyranous Ministers managing affairs in the name of a loose and unworthy Prince, as the burden of a Tyrant alone. To be brief, no more suffering themselves to be Governed by one possessed by a Devil, than they would by the Devil himself. It is not very long since the Estates compel'd *Lewis* the Eleventh (a Prince as subtile, and it may be as wilful as any) to receive Thirty six Overseers, by whose advice he was bound to Govern the affairs of State. The descendants from *Charlemaine* substituted in the place of the *Merovingiens* for the Government of the Kingdom, or those of *Capet*, supplanting the *Charlemains* by order of the Estates, and Raigning at this day, have no other nor better right to the Crown, than what we have formerly described; and it hath ever been according to Law permitted the whole body of the People, represented by the Counsel of the Kingdom, which are commonly called the Assembly of the States, to depose and establish Princes, according to the necessities of the Common wealth. According to the same rule we read that *Adolph* was removed from the Empire of *Germany Anno* 1296. because for covetousness without any just occasion, he Invaded the Kingdom of *France*, in favour of the *English*, and *Wenceslaus* was also deposed in the year of our Lord 1400. Yet were not these Princes exceeding bad ones, but of the number of those which are accounted less ill. *Elizabeth* the Wife of *Edward* the II, King of *England*, Assembled the Parliament against her Husband, who was there deposed, both because he Tyraniz'd in general over his Subjects; as also for that he Cut off the Heads of many Noble Men, without any just or legal proceeding. It is not long since *Christierne* lost the Crown of *Denmark*, *Henry* that of *Sweden*, Mary *Steward* that of *Scotland*, for the same, or near resembling occasions: And the most worthy Histories relate divers Alterations and Changes which have happened in like manner, in the Kingdoms of *Polonia*, *Hungarie*, *Spain*, *Portugal*, *Bohemia*, and others.

Anno 1296.

1400.

Froisard. lib. 1. Cap. 1.

Read the manner of the deposing of *Richard* the Second.

But what shall we say of the Pope himself? It is generally held that the Cardinals, because they do Elect him, or if they fayl in their

Ant. de But. consil. quod pessimum est inter.

consil. Paul. de Castro, vel antiq; nu. 412. incip. viso puncto.

their duty, the *Patriarchs* which are next in rank to them, may upon certain occasions maugre the Pope, call a Council, yea, and in it judge him; as when by some notorious offence he scandalizeth the universal Church; if he be incorrigible, if reformation be as necessary in the head as the members, if contrary to his Oath he refuse to call a general Council: And we read for certain, that divers Popes have been deposed by general Councils. But if they obstinately abuse their Authority, there must (saith *Baldus*) first be used verbal Admonitions; secondly, herbal Medicaments or Remedies; thirdly, Stones or Compulsion; for where vertue and fair means have not Power to perswade, there force and terror must be put in ure to compel. Now if according to the opinions of most of the learned, by decrees of Councils, and by custom in like occasions, it plainly appears, that the Council may depose the Pope, who notwithstanding vaunts himself to be the King of Kings, and as much in Dignity above the Emperour, as the Sun is above the Moon, assuming to himself Power to depose Kings and Emperours when he pleaseth. Who will make any donbt or question, that the general Assembly of the Estates of any Kingdom, who are the representative body thereof, may not only degrade and disthronize a Tyrant; but also, even dis-authorize and depose a King, whose weakness or folly, is hurtful or pernicious to the State.

Mar. Lauden. in tract. de Card. in 2. q. 35. Philip. Decius in quodam consilio cujus verba fuerunt. Andr. Barb. in d. consil. 1. lib. 1. cap. 6. Bald. in c. olim. col. penul. de reseri. in Decretal. Bonif. 8. de major & obed.

Simile.

But let us suppose, that in this our Ship of State, the Pilot is drunk, the most of his Associates are asleep, or after large and unreasonabl tipling together, they regard their eminent danger in approaching a Rock, with idle and negligent jollity; the Ship in the mean season instead of following her right courle, that might serve for the best advantage of the owners profit, is ready rather to split her self. What should then a Masters-mate, or some other Under-officer do, who is vigilant and carefnl to perform his duty? Shall it be thought sufficient for him to pinch or pouse them which are asleep, without daring in the mean time to put his helping hand to preserve the Vessel which runs on a course to destruction, least he should be thought to intermeddle with that which he hath no Authority nor warrant to do? What mad discretion, nay, rather notorious impiety were this? Seeing then that Tyranny, as *Plato* saith, is a drunken frensie or frantick drunkenness, if the Prince endeavour to ruine the Common-wealth, and

Plat. lib. 8. & 9. de repub.

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the principal Officers concur with him in his bad purposes, or at the least are luld in a dull and drowsie dream of security, and the people (being indeed the true and absolute Owner and Lord of the State) be through the pernicious negligence and fraudulent connivency of those Officers brought to the very brim of danger and destruction, and that there be notwithstanding amongst those unworthy Ministers of State, some one that doth studiously observe the deceitful and dangerons encroachments of tyranny, and from his soul detests it. What opposition do we suppose best befits such a one to make against it? Shall he consent himself to admonish his associates of their duty, who to their utmost ability endeavour the contrary? Besides, that such an advertisement is commonly accompanied with too much danger, and the condition of the times considered, the very soliciting of reformation will be held as a capital crime: so that in so doing he may be not unfitly resembled to one that being in the midst of a desert, environed with Thieves, should neglect all means of defence, and after he had cast away his Arms, in an eloquent and learned discourse commend justice, and extol the worth and dignity of the Laws. This would be truly according to the Proverb, *To run mad with reason.* What then? Shall he be dull and deaf to the groans and cries of the people? Shall he stand still and be silent when he sees the Thieves enter? Shall he only hold his hands in his bosome, and with a demure countenance, idlely bewail the miserable condition of the times? If the Laws worthily condemn a Soldier, which for fear of the Enemies counterfeits sickness, because in so doing he expresseth both disloyalty and treachery. What punishment can we invent sufficient for him, who either maliciously or basely betrays those whose protection and defence he hath absolutely undertaken and sworn? Nay rather than let such a one (cheerfully call one. and command the Marriners to the performance of their duty: let him carefully and constantly take order that the Common-wealth be not indamaged, and if need so require, even in despight of the King, preserve the Kingdom, without which the kingly title were idle and frivolous, and if by no other means it can be effected, let him take the King and bind him hand and foot, that so he may be more conveniently cured of his frensie and madness. For as we have already said, all the administration of the Kingdom, is not by the people absolutely resigned into the

Simile.

L. 3. & 1. Omne delictum. ff. ult. D. de re milit.

hands

C. Nullus in Carthagin. Concil. Doctores Pontificii.

hands of the King; as neither the Bishoprick, nor care of the universal Church, is totally committed to the Pope: but also to the care and custody of all the principal Officers of the Kingdom. Now for the preserving of peace and concord amongst those which govern, and for the preventing of jealousies, factions, and distrusts amongst men of equal rank and dignity, the King was created prime and principal Superintendent in the government of the Common-wealth. The King swears that his most special care shall be for the welfare of the Kingdom; and the Officers of the Crown take all the same Oath. If then the King, or divers of them falsifying their faith, ruine the Common-wealth, or abandon her in her greatest necessity, must the rest also fashion themselves to their base courses, and quit all care of the States safety; as if the bad example of their companions, obsolved them from their oath of fidelity? Nay, rather on the contrary, in seeing them neglect their promise, they shall best advantage the Common-wealth in carefully observing theirs: chiefly because for this reason they were instituted, as in the steads of *Ephori*, or publick Controlers, and for that every thing gains the better estimation of just and right in that it is mainly and pricipally addressed to that end for which it was first ordained.

Furthermore, if divers have joyntly vowed one and the same thing, is the obligation of the one annihilated by the perjury of the other? If many become bound for one and the same summ, can the bankrumpting of one of the Obligees quit the rest of their ingagement? If divers Tutors administer ill the goods of their Pupil, and that there be one amongst them that makes conscience of his actions, can the bad dealing of his companions acquit him? Nay rather on the contrary, he cannot free himself from the infamy of perjury, if to the utmost of his power he do not truly discharge his trust, and perform his promise: neither can the others defalliancy be excused, in the bad managing of the tutorship, if they likewise accuse not the rest that were joyned with them in the administration, for it is not only the principal Tutor that may call to an account those which are suspected to have unjustly or indiscreetly ordered the Affairs of their Pupil, but even those which were formerly removed, may also upon just occasion discharge and remove the delinquents therein. Therefore those which are obliged to serve a whole Empire and Kingdom, as the

L. 3. D. de adminis. & peric. tutor. & cur. lib. 3. D. de suspect. tut. & curat.

Constable,

Constable, Marshals, Peers and others, or those which have particular obligations to some Provinces or Cities, which make a part or portion of the Kingdom, as Dukes, Marquisses, Earls, Sheriffs, Mayors and the rest, are bound by the duty of their place, to succour the Common-wealth, and to free it from the burden of Tyrants, according to the rank and place which they hold of the People next after the King. The first ought to deliver the whole Kingdom from tyrannous Oppression; the other as Tutors, that part of the Kingdom whose Protection they have undertaken; the duty of the former is to suppress the Tyrant, that of the latter, to drive him from their confines. Wherefore *Mattathias* being a principal man in the State, when some basely connived, others perritiously consorted with *Antiochus* the tyrannous Oppressor of the *Jewish* Kingdom, he couragiously opposing the manifest Oppression both of Church and State, incourageth the People to the taking of Arms, with these words, *Let us restore the decayed Estate of our People, and let us fight for our People, and for the Sanctuary.* Whereby it plainly appears, that not for Religion only, but even for our Countrey, and our possessions, we may fight and take Arms against a Tyrant, as this *Antiochus* was. For the *Machabites* are not by any questioned, or reprehended for conquering the Kingdom, and expelling the Tyrant, but in that they attributed to themselves the Royal Dignity, which only belonged by God's special appointment, to the Tribe of *Judah*.

1 Machab. 3. 43.

Humane Histories are frequently stored with Examples of this kinds *Arbactus* Governour of the *Medes*, killed effeminate *Sardanapalus*, spinning amongst Women, and sportingly distributing all the treasures of the Kingdom amongst those his loose Companions. *Vindex* and *Galba* quit the party of *Nero*, yea though the Senate connived, and in a sort supported his Tyranny, and drew with them *Gallia* and *Spain*, being the Provinces whereof they were Governours.

Justin. lib. 1. Diodor. lib. 2. cap. 37.

But amongst all, the Decree of the Senate of *Sparta* is most notable, and ought to pass as an undeniable Maxim amongst all Nations. The *Spartans* being Lords of the City *Bizantium*, sent *Olearchus* thither for Governour and Commander for the Wars; who took Corn from the Citizens, and distributed it to his Soldiers. In the mean time the Families of the Citizens died for hun-

ger; *Anaxilaus* a principal man of the City, disdaining that tyranous usage, entred into treaty with *Alcibiades* to deliver up the Town, who shortly after was received into it. *Anaxilaus* being accused at *Sparta* for the dilivery of *Bizantium*, pleaded his cause himself, and was there acquit by the Judges; for (said they) Wars are to be made with Enemies, and not with Nature. Nothing being more repugnant to Nature, than that those which are bound to defend a City, should be more cruel to the Inhabitants, than their Enemies that besiege them.

This was the opinion of the *Lacedemonians*, certainly just Rulers, neither can he be accounted a just King, which approves not this sentence of Absolution; for those which desire to govern according to the due proportion of Equity and Reason, take into consideration, as well what the Law inflicts on Tyrants, as also, what are the proper rights and bounds, both of the Patritian and Plebeian orders. But we must yet proceed a little further: There is not so mean a Mariner, but must be ready to prevent the shipwrack of the Vessel, when either the negligence or wilfulness of the Pilot casts it into danger. Every Magistrate is bound to relieve, and as much as in him lies, to redress the miseries of the Common-wealth, if he shall see the Prince, or the principal Officers of State his associates, by their weakness or wickedness, to hazard the ruine thereof; briefly, he must either free the whole Kingdom, or at least that portion, especially recommended to his care, from their imminent and incroaching Tyranny. But hath this duty proper relation to every one? Shall it be permitted to *Hendonius Sabinus*, to *Ennus Suranus*, or to the Fencer *Spartanus*; or to be brief, to a meer private Person to present the bonnet to slaves, put Arms into the hands of subjects, or to joyn battle with the Prince, although he oppress the People with Tyranny? No certainly, the Common-wealth was not given in charge to particular Persons, considered one by one; but on the contrary, particulars even as Papists, are recommended to the care of the principal Officers and Magistrates; and therefore they are not bound to defend the Common-wealth, which cannot defend themselves. God nor the People have not put the sword into the hands of particular Persons; therefore, if without Commandment they draw the Sword, they are seditious, although the cause seem never so just.

L. 2. de Seditiosis.

Further-

Furthermore, the Prince is not eſtabliſht by private and particular Perſons, but by all in general conſidered in one intire body; whereupon it follows, that they are bound to attend the commandment of all, to wit, of thoſe which are the repreſentative body of a Kingdom, or of a Province, or of a City, or at the leaſt of ſome one of them, before they undertake any thing againſt the Prince. For as a Pupil cannot bring an action, but being avowed in the name of his Tutor, although the Pupil be indeed the true Proprietor of the Eſtate, and the Tutor only owner with reference to the charge committed unto him; ſo likewiſe the People may not enterpriſe actions of ſuch nature, but by the command of thoſe, into whoſe hands they have reſigned their power and Authority, whether they be ordinary Magiſtrates, or extraordinary, created in the Aſſembly of the Eſtates; whom, if I may ſo ſay, for that purpoſe, they have girded with their Sword, and inveſted with Authority, both to Govern and Defend them. Eſtabliſht in the ſame kind as the Pretor at *Rome*, who determined all differences between Maſters and their Servants, to the end that if any Controverſie happened between the King and the Subjects, they ſhould be Judges and preſervers of the Right, leſt the Subjects ſhould aſſume power to themſelves to be Judges in their own Cauſes. And therefore if they were oppreſt with Tributes, & unreaſonable Impoſts; if any thing were attempted contrary to Covenant and Oath, and no Magiſtrate oppoſed thoſe unjuſt proceedings; they muſt reſt quiet, and ſuppoſe that many times the beſt Phyſitions, both to prevent and cure ſome grievous Diſeaſe, do appoint both letting Blood, evacuation of Humors, and lancing of the Fleſh; and that the Affairs of this World are of that nature, that with much difficulty, one Evil cannot be remedied without the adventuring, if not the ſuffering of another; nor any Good be atchieved, without great pains. They have the example of the People of *Iſrael*, who during the Reign of *Solomon*, refuſed not to pay thoſe exceſſive Taxes impoſed on them, both for the building of the Temple, and fortifying of the Kingdom, becauſe by a general Conſent they were granted for the promulgation of the Glory of God, and for an Ornament and Defence of the publick State.

L. 3. l. 9 D. de. auct. & conſ. tut. & cur.

Seneca lib. 1 de Benefic.

They have alſo the example of our Lord and Saviour Jeſus Chriſt, who though he were King of Kings, notwithſtanding

because he conversed in this World in another quality, to wit, of a private and particular man, paid willingly tribute. If the Magistrates themselves manifestly favour the Tyranny, or at the
Job. 34. least do not formally oppose it; let private men remember the saying of *Job*, *That for the Sins of the People God permits Hypocrites to Reign*, whom it is impossible either to Convert or Subvert, if men repent not of their ways, to walk in Obedience to Gods Commandments; so that there is no other Weapons to be used, but bended Knees and humble Hearts. Briefly, let them bear with bad Princes, and pray for better, perswading themselves, that an outragious Tyrany is to be supported as patiently, as some exceeding dammage done by the violence of Tempests, or some excessive over-flowing Waters, or some such natural accidents unto the Fruits of the Earth, if they like not better to change their Habitations, by retiring themselves into some other Countries. So *David* fled into the Mountains, and attempted nothing against the Tyrant *Saul*, because the People had not declared him any publick Magistrate of the Kingdom.

Jesus Christ, whose Kingdom was not of this World, fled into *Egypt*, and so freed himself from the Paws of the Tyrant. Saint
Rom. 13. *Paul* teaching of the duty of particular Christian men, and not of Magistrates, teacheth that *Nero* must be obeyed. But if all the principal Officers of State, or divers of them, or but one, endeavour to suppress a manifest Tyranny, or if a Magistrate seek to free that Province, or Portion of the Kingdom from oppression, which is committed to his Care and Custody, provided under colour of freedom he bring not in a new Tyrany, then must all men with joynt courage and alacrity, run to Arms, and take part with him or them, and assist with Body and Goods, as if God himself from Heaven had proclaimed Wars, and meant to joyn Battle against Tyrants, and by all ways and means endeavour to deliver their Countrey and Common-wealth from their Tyranous Oppression. For as God doth oftentimes chastise a People by the cruelty of Tyrants; so also doth he many times punish Tyrants by the Hands of the People. It being a most true saying,
Eccles. 10. verified in all Ages: *For the Iniquities, Violences, and Wickedness of Princes, Kingdoms are Translated from one Nation to another; but Tyranny was never of any durable continuance.*

The

The *Centurians* and men at Arms did freely and couragiously execute the commandments of the High Prieſt *Jehoiada*, in ſuppreſſing the Tyranny of *Athalia*. In like manner all the faithful and generous *Iſraelites* took part and joyned with the *Machabites*, as well to re-eſtabliſh the true ſervice of God, as alſo to free and deliver the State from the wicked and unjuſt oppreſſion of *Antiochus*, and God bleſſed with happy ſucceſs their juſt and commendable enterprize. What then, cannot God when he pleaſeth ſtir up particular and private Perſons, to ruine a mighty and powerful tyranny? He that gives power and ability to ſome even out of the duſt, without any title or colourable pretext of lawful athority to riſe to the height of Rule and Dominion, and in it Tyrannize and afflict the People for their Tranſgreſſions? Cannot he alſo even from the meaneſt multitude raiſe a Liberator? He which enthral'd and ſubjected the People of *Iſrael* to *Jabin*, and to *Eglon*, did he not deliver and enfranchiſe them by the hand of *Ehud*, *Barac* and *Debora*, whilſt the Magiſtates and Officers were dead in a dull and negligent extaſie of ſecurity? What then ſhall hinder? You may ſay the ſame God, who in theſe days ſends us Tyrants to correct us, that he may not alſo extraordinarily ſend correctors of Tyrants to deliver us? What if *Ahab* cut off good men, if *Jezabel* ſubborn falſe witneſſes againſt *Naboth*, may not a *Jehu* be rais'd to exterminate the whole line of *Ahab*, to revenge the death of *Naboth*, and *to caſt the body of* Jezabel *to be torn and devoured of dogs?* Certainly as I have formerly anſwered, the Almighty is ever mindful of his Juſtice, and maintains it as inviolably as his mercy.

But for as much as in theſe latter times, thoſe miraculous teſtimonies by which God was wont to confirm the extraordinary vocation of thoſe famous Worthies, are now wanting for the moſt part: let the People be adviſ'd, that in ſeeking to croſs the Sea dry foot, they take not ſome *Impoſtor* for their Guide, that may lead them head long to deſtruction (as we may read happened to the *Jews*; and that in ſeeking freedom from Tyranny, he that was the principal Inſtrument to diſ-inthrall them, became not himſelf a more inſupportable Tyrant than the former: Briefly, leſt endeavouring to advantage the Common-wealth, they introduce not a common miſery upon all the undertakers, participating therein with divers States of *Italy*, who ſeeking to ſuppreſs the preſent evil, added an acceſſion of greater and more intolerable ſervitude.

Finally,

Finally, that we may come to some period of this third question; Princes are chosen by God, and establisht by the People; as all particulars considered one by one, are inferiour to the Prince; so the whole body of the People and Officers of State, which represent that Body, are the Princes Superiours. In the receiving and inauguration of a Prince, there are Covenants and Contracts passed between him and the People, which are tacite and expressed, natural or civil; to wit, to obey him faithfully whilst he commands justly, that he serving the Common-wealth, all men shall serve him, that whilst he Governs according to Law, all shall be submitted to his Government, &c. The Officers of the Kingdom are the Guardians and Protectors of these Covenants and Contracts. He that maliciously or willfully violates these conditions, is questionless a Tyrant by practice. And therefore the Officers of State may Judge him according to the Laws: And if he support his Tyrany by strong hands, their Duty binds them, when by no other means it can be effected, by Force of Arms to suppress him.

Of these Officers there be two kinds, those which have generally undertaken the protection of the Kingdom; as the Constable, Marshals, Peers, Palatines, and the rest, every one of which, although all the rest do either connive or consort with the Tyrany, are bound to oppose and repress the Tyrant; and those which have undertaken the Government of any Province, City, or part of the Kingdom, as Dukes, Marquesses, Earls, Consuls, Mayors, Sheriffs, &c. they may according to Right, expel and drive Tyrany and Tyrants from their Cities, Confines, and Governments.

But particular and private Persons may not unsheath the Sword against Tyrants by practise, because they were not establisht by particulars, but by the whole body of the People. But for Tyrants which without Title intrude themselves for so much as there is no contract or agreement between them and the People, it is indifferently permitted all to oppose and depose them; and in this rank of Tyrants may those be rang'd, who abusing the weakness and sloath of a lawful Prince, Tyraniously insult over his Subjects. Thus much for this, to which for a more full resolution may be added that which hath been formerly discourst in the second question.

The

The Fourth Question.

Whether Neighbour Princes may, or are bound by Law to aid the Subjects of other Princes, persecuted for true Religion, or Oppressed by manifest Tyranny.

WE have yet one other question to treat of, in the discussing whereof, there is more use of an equitable judgment than of a nimble Apprehension; and if charity were but in any reasonable proportion prevalent amongst the men of this age, the disputation thereof was altogether frivolous; but seeing nothing in these days is more rare, nor less esteemed than Charity; we will speak somewhat of this our Question. We have already sufficiently proved, That all Tyrants, *Whether those that seek to captivate the Minds and Souls of the People with an erroneous and superstitious Opinion in matter of Religion? Or, those that would enthrall their Bodies and Estates with miserable Servitude and exceesive Impositions, may justly by the People, be both suppress and expulst?* But for so much as Tyrants are for the most part so cunning, and Subjects seldom so cautelous; that the disease is hardly known, or at the least, not carefully observed before the Remedy prove almost desperate, nor think of their own defence before they are brought to those straights, that they are unable to defend themselves, but compell'd to implore the assistance of others: Our demand therefore is, if Christian Princes lawfully may, and ought to succour those Subjects which are afflicted for true Religion, or oppress by unjust Servitude, and whose sufferings, are either for the Kingdom of Christ, or for the liberty of their own State? There are many, which hoping to advance their own ends, and encroach on others Rights, that will readily embrace the part of the afflicted, and proclaim the lawfulness of it; but the hope of gain, is the certain and only aim of their purposes: And in this manner the *Romans*, *Alexander* the great, and divers others, pretending to suppress Tyrants, have oftentimes enlarged their own limits. It is not long since we saw King *Henry* the Second make Wars on the Emperour *Charles* the Fifth, under colour of defending and delivering the Protestant Princes. As also *Henry* the

Eighth

Eighth King of *England* was in like manner ready to assist the *Germans*, if the Emperour *Charles* should molest them. But if there be some appearance of danger, and little expectance of profit, then it is that most Princes do vehemently dispute the lawfulness of the action. And as the former cover their ambition and avarice, with the vail of charity and piety, so on the contrary do the other call their fear and cowardly baseness integrity and justice; although that piety (which is ever careful of anothers good) have no part in the counsels of the first, nor justice (which affectionately desires the easing of a neighbours grief) in cooling the charitable Intendments of the later. Therefore without leaning either to the one side or the other, let us follow those rules which Piety and Justice trace us out in matter of Religion.

First, All accord in this, *That there is one only Church, whereof Jesus Christ is the Head, the Members whereof are so United and Conjoyned together, that if the least of them be offended or wronged, they all participate both in the harm and sorrow, as throughout holy Scripture plainly appears.* Wherefore the Church is compared to a *Body*; now it oftentimes happens, that the Body is not only overthrown by a wound in the Arm or Thigh, but even also much endangered, yea, sometimes kill'd by a small hurt in the little Finger. Vainly therefore doth any man vaunt that this Body is recommended to his care and custody, if he suffer that to be dismembred & pull'd in pieces which he might have preserved whole and intire. The Church is compared to an edifice: on which side soever the building is undermin'd, it many times chances that the whole tumbles down, and on what Rafter or piece of Timber soever the flame takes hold, it endangers the whole house of burning; he must needs be therefore worthy of scorn, who should defer to quench the fire which had caught his House top, because he dwells most in the Cellar; would not all hold him for a mad man which should neglect by countermining to frustrate a Mine, because it was intended to overthrow that wall there, and not this here.

Again, the Church is resembled to a Ship, which as it sailes together, so doth it sink together; insomuch that in a Tempest, those which be in the fore-castle, or in the keel, are no more secure than those which remain at the stern or on the deck: so that the Proverb commonly says, When men run the like hazard in matter of danger, *That they venture both in one Bottom.* This being

being granted queſtionleſs, whoſoever hath not a fellow-feeling in commiſerating the trouble, danger, and diſtreſs of the Church, is no member of that body, nor domeſtick in the family of Jeſus Chriſt, nor hath any place in the *Ark of the Covenant of Grace*. He wch hath any ſence of Religion in his heart, ought no more to doubt whether he be oblig'd to aid the afflicted members of the Church, than he would be aſſiſting to himſelf in the like diſtreſs; for the Union of the Church unites us all into one body, and therefore every one in his calling muſt be ready to aſſiſt the needy, and ſo much the more willingly, by how much the Almighty hath beſtowed a greater Portion of his bleſſings on us, which were not conferr'd that we ſhould be made poſſeſſors of them, but that we ſhould be diſpenſers thereof according to the neceſſity of his Saints.

As this Church is one, ſo is ſhe recommended, and given in charge to all Chriſtian Princes in general, and to every one of them in particular; for ſo much as it was dangerous to leave the care to one alone, and the Unity of it would not by any means permit, that ſhe ſhould be divided into pieces, and every portion aſſign'd unto one particular; God hath committed it all intire to particulars, and all the parts of it to all in general, not only to preſerve and defend it, but alſo to amplifie and increaſe it as much as might be. Inſomuch that if a Prince which hath undertaken the care of a Portion of the Church, as that of *Germany* and *England*, and notwithſtanding, neglect and forſake another part that is oppreſſed, and which he might ſuccour, he doubtleſs abandons the Church, Chriſt having but one only Spouſe, which the Prince is ſo bound to preſerve & defend, that ſhe be not violated or corrupted in any part, if it be poſſible. And in the ſame manner, as every private Perſon is bound, by his humble and ardent Prayers to God, to deſire the reſtoring of the Church; ſo likewiſe, are the Magiſtrates tied diligently to procure the ſame, with the utmoſt of their power and means which God hath put into their hands. For the Church of *Epheſus* is no other than that of *Coloſſus*, but theſe two are portions of the univerſal Church, which is the Kingdom of Chriſt, the encreaſe and proſperity whereof, ought to be the continual ſubject of all private mens Prayers and deſires; but it is the duty of all Kings, Princes and Magiſtrates, not only to amplifie and extend the limits and bounds of the Church in all places; but only to preſerve and defend it againſt all men whatſoever. Where-

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fore there was but one Temple in *Judea* built by *Solomon*, which represented the unity of the Church; and therefore ridiculous and worthy of punishment was that Church-warden, which had care only of some small part of the Church, and suffered all the rest to be spoiled with Rain and Weather. In like manner, all Christian Kings when they receive the sword on the day of their Coronation, solemnly swear to maintain the Catholick or Universal Church, and the Ceremony then used doth fully express it, for holding the Sword in their hands, they turn to the East, West, North and South, and brandish it, to the end that it may be known that no part of the World is excepted. As by thir ceremony they assume the Protection of the Church, it must be questionless understood of the true Church, and not of the false; therefore ought they to employ the utmost of their Ability to reform, and wholly to restore that which they hold to be the pure and truely Christian Church, to wit, ordered and governed according to the direction of the Word of God. That this was the practise of godly Princes, we have their examples to instruct us. In the time of
2 Chron. 30. *Ezechias* King of *Judah*, the Kingdom of *Israel* had been a long time before in subjection to the *Assyrians*, to wit, ever since the King *Osea* his time; and therefore if the Church of *Judah* only, and not the whole universal Church had been committed to the Custody of *Ezechias*, and if in the preservation of the Church, the same course were to be held, as in the dividing of lands, and imposing of tributes, then questionable *Ezekias* would have contained himself within his own limits, especially then when the exorbitant Power of the *Assyrians* lorded it every where. Now we read that he sent expres Messengers throughout *Israel*, to wit, to the subjects of the King of *Assyra*, to invite them to come to *Jerusalem* to celebrate the Paschal Feast; yea, and he aided the faithful *Israelites* of the tribes of *Ephraim* and *Manasses*, and others the subjects of the *Assyrians*, to ruine the high places which were in their quarters.

2 Kings 22. 2 Chron. 34. & 35. We read also, that the good King *Josias* expell'd Idolatry, not only out of his own Kingdom, but also, even out of the Kingdom of *Israel*, which was then wholly in subjection to the King of *Assyria*, and no marvel, for where the glory of God, and the Kingdom of Christ are in question, there no bounds or limits can confine the zeal and fervent affection of pious and godly Princes. Though the opposition be great, and the power of the opposers greater, yet the

the more they fear God, the less they will fear men. These generous examples of divers godly Princes, have since been imitated by sundry Christian Kings, by whose means the Church (which was heretofore restrained within the narrow limits of *Palestine*) hath been since dilated throughout the universal World. *Constantine* & *Licinius* governed the Empire together, the one in the Orient, the other in the Occident, they were Associates of equal Power and Authority. *And amongst Equals*, as the Proverb is, *There is no Command*. Notwithstanding, because *Licinius* doth every where banish, torment, and put to Death the Christians, and amongst them divers of the Nobility, and that for and under pretence of Religion. *Constantine* makes War against him, and by force compels him to give free liberty of Religion to the Christians; and because he broke his faith, and relapsed into his former cruelties, he caused him to be apprehended and put to death in the City of *Thessalonica*. This Emperours Piety was with so great an applause celebrated by the Divines of those times, that they suppose that saying in the Prophet *Isaiah*, to be meant by him; *That Kings shall be Pastors and nursing Fathers of the Church*. After his death, the *Roman* Empire was divided equally between his Sons, without advantaging the one more than the other, *Constans* favoured the orthodox Christians, *Constantius* being the elder, leaned to the *Arrians*, and for that cause banished the learned *Athanasius* from *Alexandria*; the greatest professed adversary of the *Arrians*. Certainly, if any consideration in matter of confines be absolutely requisite, it must needs be amongst brethren; and notwithstanding *Constans* threatens to war on his Brother if he restore not *Athanasius*, and had without doubt performed it, if the other had long deferred the accomplishment of his desire. And if he proceeded so far for the restitution of one Bishop, had it not been much more likely and reasonable for him, to have assisted a good part of the people, if they implored his aid against the tyranny of those that refused them the exercise of their Religion, under the Authority of their Magistrates and Governours? So at the perswasion of *Atticus* the Bishop, *Theodosius* made War on *Cosroes* King of *Persia*, to deliver the Christians of his Kingdom from Persecution, although they were but particular and private Persons; which certainly those most just Princes, who instituted so many worthy Laws, and had so great and special care of justice, would not have done, if by that

Par in parem non habet imperium.

Sozo. lib. 7. cap. 18.

fact they had supposed any thing were usurpt on another mans right, or the Law of Nations violated. But to what end were so many Expeditions undertaken by Christian Princes into the holy Land against the *Sarazens*? Wherefore were demanded and raised so many of those Saladine tenths? To what purpose were so many confederacies made, and croysadoes proclaimed against the *Turks*, if it were not lawful for Christian Princes, yea, those furthest remote, to deliver the Church of God from the oppression of tyrants, and to free captive Christians from under the yoke of bondage? What were the motives that led them to those Wars? What were the reasons that urged them to undergo those dangers? But only in regard of the Churches union, Christ summon'd every man from all parts with a unanimous consent, to undertake the defence thereof? For all men are bound to repulse common dangers with a joynt and common opposition, all which have a natural consent and relation with this we now treat of. If this were lawful for them against *Mahomet*, and not only lawful, but that the backward and negligent were ever made liable to all infamous contempt, and the forward and ready undertakers always recompenced with all honourable respect and reward, according to the merit of their vertues; wherefore not now against the Enemy of Christ & his Saints? If it be a lawful War to fight against the *Greeks* (that I may use that Phrase) when they assail our *Troy*; Wherefore is it unlawful to pursue and prevent that incendiary *Sinon*? Finally, if it have been esteemed an heroical act to deliver Christians from corporal servitude, (for the *Turks* enforce none in point of Religion) is it not a thing yet much more noble to infranchise and set at liberty Souls imprisoned in the mists of Error.

These examples of so many religious Princes, might well have the directive power of Law. But let us hear what God himself pronounces in many places of his Word by the mouth of his Prophets, against those which advance not the building up of his Church, or which make no reckoning of her afflictions. The *Gadites*, the *Reubenites*, and half tribe of *Manasses* desire of *Moses*, that he would allot them their portion on the other side of *Jordan*. *Moses* grants their request, but with this proviso and condition, that they should not only assist their other Brethren the *Israelites* to conquer the land of *Canaan*; but also that they should march the first, & serve as vauntguard to the rest; because they had their portions.

Numb. 32. Josh. 4. 12. Deut. 3. 20.

tions first set them forth, and if they fail to perform this Duty, he with an Anathema, destines them to destruction, and compares them to those which were adjudged Rebels at *Cadisbarnea*. And what, says he, your Brethren shall fight, and you in the mean season rest quite at home? Nay, on the contrary, you also shall pass *Jordan*, and not return into their Houses, before first the Lord have driven his Enemies out from before his Face, and granted place to your Brethren as well as you, then shall you be innocent before the Lord and his People *Israel*. He shews by this, that those which God first blesseth with so great a benefit, if they help not their Brethren, if they make not themselves sharers in their labours, companions in their travels, and leaders in their dangers, they must questionless expect a heavy punishment to fall upon them.

Likewise when under the conduct of *Debora*, the *Nephtalites* & *Zabulonites* took Arms against the Tyrant *Jabin*; and that in the mean season the *Reubenites*, which should have been first in the Field, took their ease and played on their Pipes, whilst their flocks and herds fed at liberty; the *Gadites* held themselves secured with the rampire of the River; the *Danites* gloried in their command at Sea; and *Ashur*, to be brief, was confident in the difficult access of their Mountains: The Spirit of the Lord speaking by the Prophetess, doth in express terms condemn them all; *Curse ye Meros* (said the Angel of the Lord) *curse ye bitterly the Inhabitants thereof, because they came not to the help of the Lord, to the help of the Lord against the Mighty. But blessed above Women shall* Jael *the Wife of* Haber *the* Kenite *be*; who though she might have alledged the alliance which her Husband had with the *Canaanites*, did notwithstanding kill *Sisera* the General of the Enemies Army. And therefore *Urijah* speak Religiously, and like a true Patriark, when he said; *The Ark of the Lord, and* Israel, *and* Judah *abide in Tents, and my Lord* Joab, *and the Servants of my Lord are encamped in the open fields; shall I then go into mine House, to eat and to drink, and to lie with my wife? as thou livest, and as thy soul liveth, I will not do this thing.* But on the contrary, impious and wicked were the Princes of *Israel*, who supposing themselves secured by the craggy mountains of *Samaria*, and strong fortification of *Sion*, took liberty to loose themselves in luxurious feasts, loose delights, drinking delicious wines, and sleeping in perfum'd beds of Ivory, despising in the mean season poor *Joseph*, to wit, the Lords flock tormented and miserably vext-

Judges 5.

Judges 5. 23.

2 Sam. 11. 11.

Amos 6.

on

on all sides, nor have any compassion on their affliction. *The Lord God hath sworn by himself, saith the Lord God of Hosts, I abhor the excellency of* Jacob, *and hate his Pallaces, therefore will I deliver up the City, with all that is therein, and those that wallow thus in pleasures, shall be the first that shall go into Captivity.* Wickedly therefore did
Judg 3. & 12. those *Ephraimites*, who in stead of congratulating and applauding the famous and notable Victories of *Gideon* and *Jephta*, did envie and traduce them, whom notwithstanding they had forsaken in dangers.

As much may be said of the *Israelites*, who seeing *David* over-
2 Sam. 5. 2. come the difficulty of his Affairs, and remain a peaceable King,
2 Sam. 20. 1. say aloud, *We are thy flesh and thy bones:* And some years after, seeing him imbroil'd again in troubles, cryed out, *We have no part in* David, *neither have we inheritance in the Son of* Jesse. Let us rank also with these, all those *Christians* in name only, which will communicate at the holy Table, and yet refuse to take the Cup of Affliction with their Brethren, which look for Salvaion in the Church, and care not for the safety and preservation of the Church, & the Members thereof. Briefly, which adore one and the same God the Father, acknowledge and avow themselves of the same houshold of Faith, and profess to be one and the same body in Jesus Christ, and notwithstanding, yield no succour nor assistance to their Saviour,
Numb. 32. afflicted in his Members. What Vengeance do you think will God inflict on such Impiety? *Moses* compares those which abandon their Brethren to the Rebels of *Cadesh-barnea*: Now none of those by the decree of the Almighty, entred into the Land of *Canaan*. Let not those then pretend any Interest in the Heavenly *Canaan*, which will not succour Christ when he is Crucified, and suffering a thousand times a day in his Members; and as it were, beging their Alms from door to door. The Son of God with his own Mouth condems them to everlasting Fire, that when he was hungry, gave him no Meat; when he was thirsty, gave him no Drink; when he was a Stranger, lodged him not; naked, and Cloathed him not; sick, and in prison, and Visited him not: And therefore let those expect punishments without end, which lend a deaf Ear to the Complaints and Groans of our Saviour Jesus Christ, suffering all these things daily in his Members; although otherwise they may appear both to others and themselves, to be Jolly Christians, yet shall their condition be much more miserable than that

of

of many Infidels. For why? were they the Jews only, and Scribes and Phariſees, to ſpeak properly, that Crucified Chriſt? or were they Ethnicks, Turks, or ſome certain pernitious Sects of Chriſtians, which Crucifie, Torment, and Perſecute him in his Members? No certainly, the Jews hold him an Impoſter, the Ethnicks a malefactor, the Turks an Infidel, the others an Heretick, inſomuch as if we conſider the Intention of theſe men, as the cenſuring of all offences ought to have principal relation thereunto, we cannot conclude that it is properly Chriſt that they Perſecute with ſuch hatred, but ſome Criminal Perſon, which in their Opinion deſerves this Uſage: But they do truly and properly Perſecute and Crucifie Chriſt Jeſus, which profeſs to acknowledge him for the *Meſſias*, God and Redeemer of the World; and which notwithſtanding fail to free him from Perſecution and vexation in his Members, when it is in their power to do it. Briefly, he which omits to deliver his Neighbour from the hands of the *Murderer*, when he ſees him in evident danger of his life, is queſtionleſs guilty of the Murder, as well as the Murderer. For ſeeing he neglected when he had means to preſerve his life, it muſt needs neceſſarily follow, that he deſired his death. And in all Crimes the will and intendment ought principally to be regarded. But queſtionleſs theſe Chriſtian Princes, which do not relieve and aſſiſt the true Profeſſors, which ſuffer for true Religion, are much more guilty of Murder than any other, becauſe they might deliver from danger an infinite number of People, which for want of timely Succours, ſuffer death and torments under the cruel hands of their Perſecuters: And to this may be added, *That to ſuffer ones Brother to be Murdered, is a greater offence than if he were a Stranger.* Nay, I ſay further, *Theſe forſakers of their Brethren in their time of danger and diſtreſs, are more vile, and more to be abhorred than the Tyrants themſelves that Perſecute them.* For it is much more wicked, and worthy of greater puniſhment, to kill an honeſt man that is innocent and fearing God (as thoſe which conſent with them in the faith, muſt of neceſſity know the true profeſſors to be) than a Thief, an Impoſtor, a Magician, or an Heretick, as thoſe which Perſecute the true Chriſtians do commonly believe them to be, it is a greater offence by many degrees to ſtrive with God, than Man. Briefly, in one and the ſame action it is a much more grievous Crime, perfidiouſly to betray, than ignorantly to offend. But may the

Aug. in Pſa. 32.
Amb. lib. 1. de Offic.
Gratian in Decret.

the ſame alſo be ſaid of them which refuſe to aſſiſt thoſe that are oppreſſed by Tyranny, or defend the Liberty of the Commonwealth againſt the oppreſſion of Tyrants? For in this caſe the conjunction or confederacy ſeems not to be of ſo ſtrict a condition between the one and the other; here we ſpeak of the Commonwealth diverſly Governed according to the cuſtoms of the Countreys, and particularly recommended to theſe here, or thoſe there; and not of the Church of God, which is compoſed of all, and recommended to all in general, and to every one in particular. The *Jew* ſaith, our Saviour Chriſt is not only Neighbour to the *Jew*, but alſo to the *Samaritan*, and to every other man. But we ought to love our Neighbour as our ſelves; and therefore an *Iſralite* is not only bound to deliver an *Iſralite* from the hands of Thieves, if it be in his power, but every ſtranger alſo; yea, though unknown, if he will rightly diſcharge his duty: Neither let him diſpute whether it be lawful to defend another, which believes he may juſtly defend himſelf. For it is much more juſt, if we truly conſider the concomitants, to deliver from danger and outrage another than ones ſelf; ſeeing that what is done for pure Charity, is more right and allowable, than that which is executed for colour, or deſire of revenge, or by any other tranſport of paſſion: in revenging our own wrongs we never keep a mean; whereas in other mens, though much greater, the moſt intemperate will eaſily obſerve moderation. Furthermore, the Heathens themſelves may teach us what Humane Society, and what the Law of nature requires of us in this buſineſs; wherefore *Cicero* ſays, *That Nature being the common Mother of Mankind, preſcribes and ordains, that every man endeavour and procure the good of another whatſoever he be, only becauſe he is a man; otherwiſe all bonds of Society, yea and mankind it ſelf muſt needs go to ruine.* And therefore as Juſtice built on theſe two Baſis, or Pillars; Firſt, that none be wronged; Secondly, that good be done to all, if it be poſſible. So alſo is there two ſorts of Juſtice; the firſt, in thoſe which offer injury to their Neighbours; the ſecond, in them which when they have means to deliver the oppreſſed, do notwithſtanding ſuffer them to ſink under the burthen of their wrongs: For whoſoever doth wrong to another, either mov'd thereunto by anger, or any other paſſion, he may in a ſort be truly ſaid to lay violent hands on his companion; but he that hath Means, and defends not the Afflicted,

Cicero lib. 1. & 3. Offic.

flicted, or to his power wards not the blows that are ſtruck at him, is as much faulty, as if he forſook his Parents, or his Friends, or his Country in their diſtreſs. That which was done by the firſt, may well be attributed to Choler, which is a ſhort madneſs; the fault committed by the other, diſcovers a bad mind, and a wicked purpoſe, which are the perpetual Tormentors and Tyrants of the Conſcience. The fury of the firſt may be in ſome ſort excuſed, but the malice of the ſecond admits no colour of defence. Peradventure you will ſay, I fear in aiding the one, I ſhall do wrong to the other. And I anſwer, You ſeek a Cloak of Juſtice wherewith to cover your baſe remiſneſs: And if you lay your hand on your heart, you will preſently confeſs, that it is ſomewhat elſe, and not juſtice, that withholds you from performing your duty. For as the ſame *Cicero* ſays in another place, *Either thou wilt not make the wrong-doer thine enemy, or not take pains, or not be at ſo much charge, or elſe negligence, ſloth, or the hindering of thine own occaſions, or the croſſing of other purpoſes, takes thee off from the defence of thoſe who otherwiſe thou art bound to relieve. Now in ſaying thou only attends thine own Affairs, fearing to wrong another, thou falleſt into another kind of injuſtice: for thou abandoneſt human ſociety, in that thou wilt not afford any endeavour either of mind, body, or goods, for the neceſſary preſervation thereof.* Read the Directions of the Heathen Philoſophers and Politicians who have written more divinely herein, than many Chriſtians in theſe days. From hence alſo proceeds, that the *Roman* Law deſigns puniſhment to that Neighbour which will not deliver the Slave from the outragious fury of his Maſter.

Amongſt the *Ægyptians*, if any Man had ſeen another aſſail'd and diſtreſs'd by Thieves and Robbers, and did not according to his power preſently aid him, he was adjudg'd worthy of death, if at the leaſt he diſcover'd or delivered not the Delinquents into the hand of the Magiſtrate. If he were negligent in performing this duty for the firſt Mulct, he was to receive a certain number of Blows on his Body, and to faſt for three days together. If the Neighbour be ſo firmly oblig'd in this mutual duty of ſuccour to his neighbour, yea, to an unknown perſon in caſe he be aſſail'd by Thieves: ſhall it not be lawful for a good Prince to aſſiſt, not Slaves to an Imperious

Diodor. Siculus, l. 2. c. 2.

Master, or Children against a Furious Father; but a Kingdom against a Tyrant, the Common-wealth against the private spleen of one, the people (who are indeed the true owners of the State) against a ministring servant to the publick. And if he carelesly, or wilfully omit this duty, deserves he not himself to be esteem'd a Tyrant, and punished accordingly, as well as the other a Robber, which neglected to assist his neighbour in that danger? *Thucidides* upon this matter says, *That those are not only Tyrants which make other Men Slaves, but much more those who having means to suppress and prevent such oppression, take no care to perform it.* And amongst others, those which assumed the Title of Protectors of *Greece*, and defenders of the Country: and yet stir not to deliver their Country from oppression of strangers, and truly indeed. For a Tyrant is in some sort compel'd to hold a straight and tyrannous hand over those, who by violence and tyranny, he hath constrain'd to obey him, because as *Tiberius* said, *he holds the Wolf by the ears, whom he can neither hold without pain and force, nor let go without danger and death.* To the end then that he may blot out one sin with another sin, he fills up one wickedness to another, and is forced to do injuries to others, lest he should prove by remissness injurious to himself. But the Prince which with a negligent and idle regard looks on the outragiousness of a Tyrant, and the massacring of Innocents, that he might have preserved, like the Barbarous Spectacles of the *Roman* Sword-plays is so much more guilty than the Tyrant himself, by how much the Cruel and Homicidious Directers and Appointers of these Bloody Sports, were more justly punishable by all good Laws than the poor and constrain'd Actors in those murthering Tragedies: And as he questionless deserves greater punishment, which out of insolent Jollity murthers one, than he which unwillingly for fear of a further harm kills a man. If any object that it is against reason and good order to meddle in the affairs of another: I answer with the Old Man in *Terrence*, *I am a Man, and I believe that all duties of humanity are fit and convenient for me.* *If others seeking to cover their base negligence, and careless unwillingness, alledge that bounds and jurisdictions are distinguisht one from another, and that it is not lawful to thrust ones Sickle into anothers Harvest.* Neither am I also of that opinion, that upon

Theucid. lib. 1.

Pompon. de reg. jur. leg. 36.

any

any such colour or pretence, it is lawful for a Prince to encroach upon anothers Jurisdiction or right, or upon that occasion to usurp anothers Country, and so carry another Man's Corn into his Barn, as divers have taken such shadows to mask their bad intentions. I will not say, that after the manner of those Arbitrators which *Cicero* speaks of, thou adjudge the things in Controversie to thy self. But I require that you repress the Prince that Invades the Kingdom of Christ, that you contain the Tyrant within his own limits, that you stretch forth your hand of compassion to the people afflicted, that you raise up the Common-wealth lying groveling on the ground, and that you so carry your self in the ordering and managing of this, that all men may see your principal aim and end was the publick benefit of Human Society, and not any private profit or advantage of your own; For seeing that Justice respects only the publick, and that which is without, and injustice fixes a man wholly on himself: It doubtless becomes a Man truly honest so to dispose his actions, that every private interest give place, and yield to publick commodity. *Cicer. 2 offc.*

Briefly to Epitomize what hath been formerly said, if a Prince outragiously over-pass the bounds of Piety and Justice. A neighbour Prince may justly and religiously leave his own Country, not to invade and usurp anothers, but to contain the other within the limits of Justice and Equity: And if he neglect or omit his duty herein, he shews himself a wicked and unworthy Magistrate. If a Prince tyrannize over the People, a neighbour Prince ought to yield Succours as freely and willingly to the People, as he would do to the Prince his Brother if the People mutined against him: yea, he should so much the more readily succour the people, by how much there is more just cause of pity to see many afflicted, than one alone. If *Porsenna* brought *Tarquinius Superbus* back to *Rome*, much more justly might *Constantine*, requested by the Senate, and *Roman* people, expel *Maxentius* the Tyrant from *Rome*. Briefly, if man become a Wolf to Man, who hinders that Man (according to the Proverb) may not be instead of God to the needy? And therefore the Ancients have rankt *Hercules* amongst the Gods, because he punisht and tam'd *Procrustes*, *Busiris*, and other Tyrants, the Plagues of Mankind, and Monsters of the Earth.

Earth. So whilſt the *Roman* Empire retain'd her freedom, ſhe was truly accounted the ſafe-guard of all the World againſt the violence of Tyrants, becauſe the Senate was the Port and Refuge of Kings, People, and Nations. In like manner *Conſtantine*, called by the *Romans* againſt *Maxentius*, had God Almighty for the Leader of his Army: And the whole Church doth with exceeding Commendations celebrate his Enterprize, although that *Maxentius* had the ſame Authority in the Weſt, as *Conſtantine* had in the Eaſt. Alſo *Charlemaine* undertook War againſt the *Lombards*, being requeſted to aſſiſt the Nobility of *Italy*: although the Kingdom of the *Lombards* had been of a long continuance, and he had no juſt pretence of right over them. In like manner when *Charles* the Bald, King of *France*, had tyrrannouſly put to death the Governour of the Country between the River of *Seyne* and *Loyre*, with the Duke *Lambert*, and another Noble Man call'd *Jametius*, and that other great men of the Kingdom were retired unto *Lewis* King of *Germany*, Brother, (but by another Mother) unto *Charles*, to requeſt aid againſt him, and his Mother called *Judith*, one of the moſt Pernicious Women in the World, *Lewis* gave them Audience in a full Aſſembly of the *German* Princes, by whoſe joynt advice it was decreed, that Wars ſhould be made againſt *Charles* for the re-eſtabliſhing in their Goods, Honours, and Eſtates, thoſe whom he had unjuſtly diſpoſſeſt.

Finally, As there hath ever been Tyrants diſpreſt here and there, ſo alſo all Hiſtories teſtifie that there hath been Neighbouring Princes to oppoſe tyranny, and maintain the People in their right. The Princes of theſe times by imitating ſo worthy Examples, ſhould ſuppreſs the Tyrants both of Bodies and Souls, and reſtrain the Oppreſſors both of the Common-wealth, and of the Church of Chriſt: otherwiſe they themſelves may moſt deſervedly be branded with that Infamous Title of Tyrant.

And to conclude this Diſcourſe in a word, Piety commands that the Law and Church of God be maintain'd: Juſtice requires that Tyrants and Deſtroyers of the Common-wealth, be compell'd to reaſon: Charity challenges the right of relieving and reſtoring the oppreſſed. Thoſe that make no account of theſe things, do as much as in them lies to drive Piety, Juſtice, and Charity out of this World, that they may never more be heard of.

F I N I S.

DE
Jure Regni
APUD
SCOTOS.
OR, A
DIALOGUE,
Concerning the due Priviledge of
GOVERNMENT
In the Kingdom of
SCOTLAND.

BETWIXT
GEORGE BUCHANAN
And
THOMAS MAITLAND,
By the said
GEORGE BUCHANAN.
Translated out of the Original *Latine* into *English.*
By *PHILALETHES.*

LONDON, Printed for *Richard Baldwin.* 1689.

DE

Jure Regni

APUD

SCOTOS

OU A

DIALOGUE,

Concerning the due Priviledge of

GOVERNMENT

among

SCOTLAND.

A

DIALOGUE

Treating of the

JUS, OR RIGHT,

Which the KINGS of *Scotland* have for exerciſing their Royal Power.

George Buchanan, AUTHOR.

George *Buchanan* to King *James*, the ſixth of that name King of *Scots*, wiſheth all health and happineſs.

I *Wrote ſeveral years ago, when amongſt us affairs were very turbulent, a Dialogue of the right of the Scots Kings, wherein I endeavoured to explain from the very beginning (if I may ſo ſay) what right, or what authority both Kings and People have one with another. Which Book, when for that time it ſeemed ſomewhat profitable, as ſhutting the mouths of ſome, who more by importunate clamours at that time, than what was right, inveighed againſt the courſe of affairs, requiring they might be levelled according to the rule of right reaſon; but matters being ſomewhat more peaceable, I alſo having laid down my Arms, very willingly devoted my ſelf to publick concord. Now having lately fallen upon that diſputation, which I found amongſt my Papers, and perceiving therein many things which might be neceſſary for your Age (eſpecially you being placed in that part of humane affairs) I thought*

good to publish it, that it might be a standing witness of mine affection towards you, and admonish you of your duty towards your Subjects. Now many things perswaded me that this my endeavour should not be in vain: Especially your Age not yet corrupted by prave opinions, and inclination far above your Years for undertaking all Heroical and noble attempts, spontaneously making haste thereunto, and not only your promptitude in obeying your Instructors and Governours, but all such as give you sound admonition, and your Judgment and Diligence in examining Affairs, so that no mans Authority can have m ch weight with you, unless it be confirmed by probable reason. I do perceive also, that you by a certain natural instinct do so much abhor flattery, which is the Nurse of Tyranny, and a most grievous plague of a Kingdom, so as you do hate the Court Solecisms and Barbarisms no less, than those that seem to censure all elegancy, do love and effect such things, and every where in discourse spread abroad, as the Sawce thereof, these Titles of Majesty, Highness, and many other unsavoury compellations. Now albeit your good natural dipostion, and sound instructions, wherein you have been principled, may at present draw you away from falling into this Error, yet I am forced to be somewhat jealous of you, lest bad company, the fawning foster-mother of all vices, draw aside your soft and tender mind into the worst part; especially seeing I am not ignorant, how easily our other senses yeild to seduction. This Book therefore I have sent unto you to be not only your monitor, but also an importunate and bold Exactor, which in this your tender and flexible years may conduct you in safety from the rocks of flattery, and not only may admonish you, but also keep you in the way you are once entred into: And if at any time you deviate, it may reprehend and draw you back, the which if you obey, you shall for your self and for all your Subjects acquire Tranquility and Peace in this life, and Eternal Glory in the Life to come. Farewel, from Stirveling, *the Tenth day of* January *in the Year of Mans Salvation one Thousand Five Hundred Seventy Nine.*

A DIA-

THE TRANSLATOR TO THE READER.

Candid Reader,

I Have presumed to trouble your attention with the Ceremony of a Preface, the end and design of which is not to usher in my Translation to the World with curious embellishments of Oratory (that serving only to gratifie, or enchaunt a Luxuriant fancy) but allennarly to Apologize for it, in case a *Zoilus*, or a *Momus*, shall happen to peruse the same. Briefly, then I reduce all that either of these will (as I humbly perceive) object against this my work, to these two Generals, *Prevarication* and *Ignorance*. First, they will call me a prevaricator or prevaricating Interpreter, and that upon two accounts. First, Because I have (say they) sophisticated the genuine sence and meaning of the learned Author, by interpreting and foisting in spurious words of mine own. Secondly, That I have quite alienated the literal sence in other places by a too Paraphrastical expositon. To the first I answer, that none are ignorant, that the Original of this piece is a Lofty *Laconick* stile of Latin: Now I once having undertaken *Provinciam Interpretis*, behoved to render my interpretation somewhat plain and obvious, which I could never do in some places, without adding some words (*Claritatis gratiâ*) but always I sought out the scope (as far as my shallow capacity could reach) and suited them thereunto. Wherein I am hopeful, that no ingenuous impartial Reader not prepossessed with prejudice against the matter contained in the Original, and consequently against the Translation thereof, will find much matter of quarrel upon that account, if he will but take an overly view of the Original,

and so compare the Translation therewith. For I have been very sparing in adding ought of my own. To the second branch of the first Challenge I answer briefly; there are none who have the least smattering of common sence, but know well enough, that it is *morally impossible* for an Interpreter to make good Language of any Latine piece, if he shall alwayes *verbum verbo reddere*; I mean, if he adhere so close to the very rigour of the Original, as to think it illicite to use any *Paraphrase*, although the succinctness and summary comprehensiveness of the Original Stile even cry aloud for it, as it were; but to silence in a word these Critical Snarlers, where ever I have used any *Paraphrase*, I likewise have set down the exposition *ad verbum* (to the best of my knowledge) as near as I could.

The Second Challenge is of *Ignorance*, and that because I have passed by some Latine verses of *Seneca*, which are at the end of this *Dialogue*, containing the Stoicks description of a King, without Translating them into English. Now, true it is, I have done so, not because I knew not how to interpret them (for I hope, Candid Readers at least will not so judge of me) but because I thought it not requisite to meddle with them, unless I could have put as specious a lustre upon them, as my Pen would have pulled off them (for otherwise I would have greatly injured them) which could never be done without a sublime Vein of Poesie, wherein I ingenuously profess ignorance: so that if the last Challenge be thus understood, *transeat* because

Nec fonte labra prolui Cabalino,
Nec in bicipiti somniasse Parnasso,
Memini, ut repente sic Poeta prodirem.

And hence it is, that all the Latin Verses, which occur in this *Dialogue*, are by me Translated into Prose, as the rest: But I fear I have wearied your Patience too long already, and therefore I will go no further, I wish you satisfaction in the Book, and so

Vive & Vale.

A DI-

A

DIALOGUE

Concerning that

JUS or RIGHT

OF

GOVERNMENT

Amongſt the

SCOTS.

PERSONS

GEORGE BUCHANAN

And

THOMAS MAITLAND.

Thomas Maitland being of late returned home from *France*, and I ſeriouſly enquiring of him the ſtate of Affairs there, began (for the love I bear to him) to exhort him to continue in that courſe he had taken to honour, and to entertain that excellent hope in the progreſs of his Studies. For if I, being but of an ordinary ſpirit, and almoſt of no fortune, in an illiterate Age, have ſo wreſtled with the iniquity of the times, as that I ſeem to have done ſomewhat: then certainly they who are born in a more happy Age, and who have maturity of Years, Wealth and Pregnancy of Spirit, ought not to be deterred by pains from noble deſigns, nor can ſuch deſpair being aſſiſted by ſo many helps. They ſhould therefore go on with vigour to illuſtrate learning, and to commend themſelves and thoſe of their Nation to the memory of after Ages and poſterity. Yea if they would but beſtir themſelves herein ſomewhat actively, it might come to paſs, that they would eradicate out of Mens minds that opinion, that Men in the cold regions

of the World, are at as great distance from Learning, Humanity and all Endowments of the Mind, as they are distant from the Sun. For as Nature hath granted to the *Africans*, *Egyptians*, and many other Nations more subtile motions of the Mind, and a greater sharpness of Wit, yet she hath not altogether so far cast off any Nation, as to shut up from it an entry to Vertue and Honour. Hereupon, whilst he did speak meanly of of himself (which is his modesty) but of me more affectionatly than truely: at last the tract of discourse drew us on so far, that when he had asked me concerning the troubled state of our Country, and I had answered him as far as I judged convenient for that time; I began by course to ask him, what was the opinion of the *French*'s or other Nations with whom he had conversed in *France*, concerning our Affairs? For I did not question, but that the novelty of Affairs (as is usual) would give occcasion and matter of discourse thereof to all. Why (saith he) do you desire that of me? For seeing you are well acquainted with the course of Affairs, and is not ignorant what the most part of men do speak, and what they think. You may easily gues in your own Conscience, what is, or at least should be the Opinion of all. *B.* But, the further that foreign Nations are at a distance, they have the less causes of Wrath, Hatred, Love and other Perturbations, which may divert the Mind from Truth, and for the most part they so much the more judge of things sincerely, and freely speak out what they think: that very freedom of speaking and conferring the thoughts of the Heart doth draw forth many obscure things, discovers intricacies, confirms doubts and may stop the Mouth of wicked men, and teach such as are weak. *M.* Shall I be ingenuous with you? *B.* Why not? *M.* Although I had a great desire after so long a time, to visit my native Country, Parents, Relations and Friends, yet nothing did so much inflame my desire, as the clamour of a rude multitude: For albeit I thought my self well enough fortified either by my own constant Practice, or the moral precepts of the most Learned, yet when I came to fall upon the present case, I know not how I could conceal my Pusilanimity. For when that horrid villany not long since here perpetrated, all with one voice did abominate it, the Author hereof not being known; the multitude, which is more acted by precipitancy, than ruled by deliberation, did charge the fault of some few upon all; and the common hatred of a particular crime did redound to the whole Nation, so that even such as were most remote from any suspicion were inflamed with the infamy of other mens crimes. When therefore this storm of calumny was calmed, I betook my self very willingly into this port, wherein notwithstanding I am afraid, I may dash upon a Rock. *B.* Why, I pray you? *M.* Because the atrociousness of

that

that late crime doth ſeem ſo much to inflame the Minds of all already exaſperated, that now no place of Apology is left. For, how ſhall I be able to ſuſtain the impetuous aſſaults, not only of the weaker ſort, but alſo of thoſe who ſeem to be more ſagacious, who will exclaim againſt us, that we were content with the ſlaughter of an harmleſs Youth, an unheard of cruelty, unleſs we ſhould ſhew another new example of atrocious cruelty againſt Women, which ſex very Enemies do ſpare when Cities are taken by force. Now from what villany will any dignity or Majeſty deter thoſe, who thus rage againſt Kings? or what place for mercy will they leave, whom neither the weakneſs of Sex, nor innocency of Age will reſtrain? Equity, Cuſtom, Laws, the reſpect to Soveraignty Reverence of lawful Magiſtracy, which henceforth they will either retain for ſhame, or coerce for fear, when the power of ſupream Authority is expoſed to the ludibry of the baſeſt of the People, the difference of equity and iniquity, of honeſty and diſhoneſty being once taken away, almoſt by a publick conſent, there is a degeneracy into cruel barbarity. I know I ſhall hear theſe and more atrocious then theſe ſpoken ſo ſoon as I ſhall return into *France* again; all mens Ears in the mean time being ſhut from admitting any Apology or ſatisfaction. *B.* But I ſhall eaſily liberate you of this fear, and our Nation from that falſe crime. For, if they do ſo much deteſt the atrociouſneſs of the firſt crime, how can they rationally reprehend ſeverity in revenging it? or if they take it ill, that the Queen is taken order with, they muſt needs approve the firſt deed; chooſe you then, which of the two would you have to ſeem cruel. For neither they nor you can praiſe or reproach both, provided you underſtand your ſelves. *M.* I do indeed abhor and deteſt the Kings Murther, and am glad that the Nation is free of that guilt, and that it is charged upon the wickedneſs of ſome few. But this laſt fact I can neither allow or diſallow; for it ſeems to me a famous and memorable deed, that by counſel and diligence they have ſearched out that Villany, which ſince the Memory of Man is the moſt hainous, and do purſue the perpetrators in a hoſtile manner. But in that they have taken order with the chief Magiſtrate, and put contempt upon Soveraignty, which amongſt all Nations hath been always accounted great and ſacred. I know not how all the Nations of *Europe* will reliſh it, eſpecially ſuch as live under Kingly Government; ſurely the Greatneſs and Novelty of the fact doth put me to a demur, albeit I am not ignorant what may be pretended on the contrary, and ſo much the rather, becauſe ſome of the Actors are of my intimate Acquaintance. *B.* Now I almoſt perceive, that it doth perhaps not trouble you ſo much, as thoſe of forreign Nations, who would be judges of the Vertues of others to whom

you

you think satisfaction must be given. Of these I shall set down three sorts especially, who will vehemently enveigh against that deed. The first kind is most pernicious, wherein those are, who have mancipated themselves to the lusts of Tyrants, and think every thing just and lawful for them to do, wherein they may gratifie Kings, and measure every thing not as it is in it self, but by the lust of their Masters. Such have so devoted themselves to the lusts of others, that they have left to themselves no liberty either to speak or do. Out of this Crew have proceeded those, who have most cruelly Murthered that Innocent Youth, without any cause of Enmity, but through hope of gain, Honour and Power at Court to satisfie the lust of others. Now whilst such feign to be sorry for the Queens case, they are not grieved for Her misfortunes, but look for their own security, and take very ill to have the reward of their most Hainous Crime, (which by hope they swallowed down) to be pulled out of their Throat. I judge therefore that this kind of Men should not be satisfied so much by reasoning, as chastised by the severity of Laws, and force of Arms. Others again are all for themselves; these Men, though otherwise not Malicious, are not grieved for the publick Calamity (as they would seem to be) but for their own Domestick damages, and therefore they seem to stand in need rather of some comfort, than of the remedies of perswasive reasoning and Laws. The rest is the rude multitude, which doth admire at all Novelties, reprehend many things, and think nothing is right, but what they themselves do or see done: For how much any thing done doth decline from an Ancient Custome, so far they think it is fallen from Justice and Equity. And because these be not led by Malice and Envy, nor yet by Self-interest, the most part will admit Information, and to be weaned from their Error, so that being convinced by the strength of reason, they yield: Which in the matter of Religion, we find by experience very often in these days, and have also found it in preceding Ages. There is almost no man so wild, that cannot be tamed, if he will but patiently hearken to instruction.

M. Surely we have found oftentimes that very true. *B.* When you therefore deal with this kind of people so clamorous and very importunate, ask some of them, what they think concerning the punishment of *Caligula*, *Nero* or *Domitian*, I think there will be none of them so addicted to the name *King*, that will not confess, they were justly punished. *M.* Perhaps you say right, but these very same men will forthwith cry out, that they complain not of the punishment of Tyrants, but are grieved at the sad Calamities of Lawful Kings. *B.* Do you not then perceive how easily the People may be pacified? *M.* Not indeed, unless

you

you say some other thing. *B.* But I shall cause you understand it in few words, the People (you say) approve the Murther of Tyrants, but compassionate the misfortune of Kings, would they not then change their Opinion, if they clearly understood what the difference is betwixt a Tyrant and a King? do you not think that this might come to pass, as in many other cases? *M.* If all would confess that Tyrants are justly killed, we might have a large entry made open to us for the rest, but I find some men, and these not of small Authority, who while they make Kings liable to the penalties of the Laws, yet they will maintain Tyrants to be Sacred persons; but certainly by a prepostrous judgment, if I be not mistaken, yet they are ready to maintain their Government, albeit immoderate and intolerable, as if they were to Fight for things both Sacred and Civil. *B.* I have also met with several persons oftentimes, who maintain the same very pertinaciously; but whether that opinion be right or not, we shall further discuss it hereafter at better conveniency. In the mean time, if you please, let us conclude upon this, upon condition, that unless hereafter it be not sufficiently confirmed unto you, you may have liberty to retract the same. *M.* On these terms indeed I will not refuse it. *B.* Let us then conclude these two to be contraries, a *King* and a *Tyrant*. *M.* Be it so. *B.* He therefore that shall explain the Original and Cause of Creating Kings, and what the duties of Kings are towards their People, and of People towards their Kings, will he not seem to have almost explained on the other hand, what doth pertain to the nature of a Tyrant. *M.* I think so. *B.* The representation then of both being laid out, do you not think that the People will understand also, what their duty is towards both? *M.* It is very like they will. *B.* Now contrariwise, in things that are very unlike to one another, which yet are contained under the same *Genus*, there may be some similitudes, which may easily induce imprudent Persons into an Error. *M.* Doubtless, there may be such, and especially in the same kind, where that which is the worst of the two doth easily personate the best of both, and studies nothing more, than to impose the same upon such as are ignorant. *Buc.* Have you not some representation of a King and of a Tyrant impressed in your mind? For if you have it, you will save me much pains. *M.* Indeed I could easily express what *Idea* I have of both in my mind, but I fear, it may be rude and without form, therefore, I rather desire to hear what your opinion is, lest whilst you are a refuting me, our discourse become more prolix, you being both in Age and Experience above me; and are well acquainted, not only with the Opinions of others, but also have seen the Customs of many, and their Cities. *B.* I shall then do

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it, and that very willingly, yet will I not unfold my own Opinion so much, as that of the Ancients, that thereby a greater Authority may be given to my discourse, as not being such as is made up with respect to this time, but taken out of the Opinions of those, who not being concerned in the present controversie, have no less eloquently than briefly given their judgment, without Hatred, Favour, or Envy, whose Case was far from these things; and their Opinions I shall especially make use of, who have not frivilously trifled away their time, but by vertue and counsel have flourished both at home and abroad in well governed Commonwealths. But before I produce these witnesses, I would ask you some few things, that seeing we are at accord in some things of no small importance, there may be no necessity to digress from the purpose in hand, nor to stay in explaining or confirming things that are perspicuous and well known. *M.* I think we should do so, and if you please ask me. *B.* Do you not think that the time hath been, when men did dwell in Cottages, yea and in Caves, and as strangers did wander to and fro without Laws, or certain dwelling places, and did Assemble together as their fond humours did lead them, or as some Commodity, and common utility did allure them? *M.* forsooth I believe that; seeing it is consonant to the course and order of Nature, and is testified by all the Histories of all Nations almost, for *Homer* doth discribe the representation of such a Wild and Barbarous kind of life in *Sicily*, even in the time of the *Trojans*. Their Courts (saith he) do neither abound with Councils nor Judges, they dwell only in darksome Caves, and every one of them in high mountains ruleth his own House, Wife and Children, nor is any of them at leisure to Communicate his Domestick affairs to any other. About the same time also *Italy* is said to be no better civilized, as we may easily conjecture from the most fertile regions almost of the whole World, how great a solitude and wastness there were in places on this side of *Italy*. *B.* But whether do you think the vagrant and solitary life, or the Associations of men civily incorporate, most agreeable to nature? *M.* The last without all peradventure, which *utility* the Mother almost of justice and equity did first convocate; and commanded to give signs or warnings by sound of Trumpet, and to defend themselves within Walls and to shut the Gates with one Key. *B.* But, do you think that utility was the first and main cause of the association of Men? *M.* Why not, seeing I have heard from the learned, that men are Born for men. *B.* Utility indeed to some seems to be very efficacious, both in begetting and conserving the publick Society of Mankind; but if I mistake not, there is a far more venerable, or ancient cause of mens associating, and a more Antecedaneous

cedaneous and Sacred bond of their Civil Community, otherwiſe, if every one would have a regard to his own private advantage, then ſurely that very utility would rather diſſolve than unite humane ſociety together. *M.* Perhaps that may be true, therefore I deſire to know what other cauſe you will aſſign. *B.* A certain inſtinct of nature, not only in Man, but alſo in the more tamed ſort of Beaſts, that although theſe allurements of utility be not in them, yet do they of their own accord flock together with other Beaſts of their own kind. But of theſe others we have no ground of debate? Surely we ſee this inſtinct by nature ſo deeply rooted in Man, that if any one had the affluence of all things, which contribute either for maintaining health, or pleaſure and delight of the mind, yet he will think his life unpleaſant without humane converſe. Yea, they who out of a deſire of knowledge, and an endeavour of inveſtigating the truth, have withdrawn themſelves from the multitude, and retired to ſecret corners, could not long endure a perpetual vexation of mind, nor, if at any time they ſhould remit the ſame, could they live in ſolitude, but very willingly did bring forth to light their very ſecret ſtudies, and as they had laboured for the publick good, they did communicate to all the fruit of their labour. But if there be any man who doth wholly take delight in ſolitude, and flee from converſe with men, and ſhun it, I judge it doth rather proceed from a diſtemper of the mind, than from any inſtinct of nature, ſuch as we have heard of *Timon* the *Athenian*, and *Bellerophon* the *Corinthian*, who (as the Poet ſaith) was a wandring wretch on the *Elean* Coaſts, eating his own Heart, and fleeing the very Foot-ſteps of Men. *M.* I do not in this much diſſent from you, but there is one word *Nature* here ſet down by you, which I do often uſe rather out of Cuſtome, than that I underſtand it, and is by others ſo variouſly taken, and accommodated to ſo many things, that for the moſt part I am at a ſtand to what I may mainly apply it. *B.* Forſooth at preſent I would have no other thing to be underſtood thereby, than that light infuſed by God into our minds, for when God formed that Creature more ſacred, and capable of a Celeſtial mind, and which might have dominion over the other Creatures, he gave not only Eyes to his Body, whereby he might evite things contrary to his condition, and follow after ſuch as might be uſeful, but alſo he produced in his mind a certain light, whereby he might diſcern things filthy from honeſt; this light ſome call Nature, others the Law of Nature, for my own part, truly I think it is of a heavenly ſtamp, and I am fully perſwaded, that Nature doth never ſay one thing, and Wiſdom another. Moreover, God hath given us an abridgment of that Law, which might contain the whole in few words, *viz.* That we ſhould

love him with all our Soul, and our neighbours as our ſelves, all the Books of Holy Scripture which Treat of ordering our Converſation, do contain nothing elſe but an explication of this Law. *M.* You think then that no Orator or Lawyer, who might congregate diſperſed men, hath been the Author of humane Society, but God only? *B.* It is ſo indeed, and with *Cicero*, I think there is nothing done on Earth more acceptable to the great God, who rules the World, than the aſſociations of men legally united, which are called Civil Incorporations, whoſe ſeveral parts muſt be as compactly joyned together, as the ſeveral Members of our Body, and every one muſt have their proper function, to the end there may be a mutual Cooperating for the good of the whole, and a mutual propelling of injuries, and a foreſeeing of advantages, and theſe to be Communicated for engaging the benevolence of all amongſt themſelves. *M.* You do not then make utility, but that Divine Law rooted in us from the beginning, to be the cauſe (indeed the far more worthy and Divine of the two) of mens incorporating in political Societies. *B.* I mean not indeed that to be the Mother of Equity and Juſtice, as ſome would have it, but rather the Handmaid, and to be one of the guards in Cities well conſtituted. *M.* Herein I alſo agree with you. *B.* Now as in our Bodies conſiſting of contrary Elements, there are Diſeaſes, that is, perturbations, and ſome inteſtine tumults, even ſo there muſt be of neceſſity in theſe greater Bodies, that is in Cities, which alſo conſiſt of various, (yea and for the moſt part) contrary humours, or ſorts of men, and theſe of different ranks, conditions and natures, and which is more, of ſuch as cannot remain one hour together approving the ſame things: And ſurely ſuch muſt needs ſoon diſſolve and come to nought; if one be not adhibited, who as a Phyſician may quiet ſuch diſturbances, and by a moderate and wholſom Temperament confirm the infirm parts and compeſce redundant humours, and ſo take care of all the Members, that the weaker may not languiſh for want of Nutrition, nor the ſtronger become luxuriant too much. *M.* Truly, it muſt needs be ſo. *B.* How then ſhall we call him who performeth theſe things in a Civil Body? *B.* I am not very anxious about his name, for by what name ſoever he be called, I think he muſt be a very excellent and Divine Perſon, wherein the Wiſdom of our Anceſtors ſeemeth to have much foreſeen, who have adorned the thing in it ſelf moſt illuſtrious with an illuſtrious name. I ſuppoſe you mean *King*, of which word there is ſuch an *Emphaſis*, that it holds forth before us clearly a function in it ſelf very great and excellent. *B.* You are very right, for we deſign God by that name. For we have no other more glorious name whereby we may declare the excellency

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of his glorious Nature, nor more ſuitable, whereby to ſignifie his paternal care and providence towards us. What other names ſhall I collect, which we Tranſlate to denote the Function of a King? Such as Father *Æneas*, *Agamemnon*, Paſtor of the People, alſo a Leader, Prince, Governour. By all which names ſuch a ſignification is implyed, as may ſhew that Kings are not ordained for themſelves, but for the People. Now as for the name we agree well enough: If you pleaſe, let us confer concerning the Function, inſiſting in the ſame Foot-ſteps we began upon. *M.* Which, I pray? *B.* Do you remember what hath been lately ſpoken, that an incorporation ſeemeth to be very like our Body, Civil Commotions like to Diſeaſes, and a King to a Phyſician? if therefore we ſhall underſtand what the duty of a Phyſician is, I am of the Opinion, we ſhall not much miſtake the duty of a King. *M.* It may be ſo, for the reſt you have reckoned are very like, and ſeem to me very near in kin. *B.* Do not expect that I will here deſcribe every petty thing, for the time will not permit it, neither doth the matter in hand call for it: But if briefly theſe agree together, you ſhall eaſily comprehend the reſt. *M.* Go on then, as you are doing. *B.* The ſcope ſeemeth to be the ſame to us both. *M.* Which? *B.* The Health of the Body, for curing of which they are adhibited. *M.* I underſtand you, for the one ought to keep ſafe the humane Body in its ſtate, and the other the Civil Body in its ſtate, as far as the nature of each can bear, and to reduce into perfect Health the Body Diſeaſed. *B.* You underſtand very well, for there is a twofold duty incumbent to both, the one is to preſerve Health, the other is to reſtore it, if it become weak by ſickneſs. *M.* I aſſent to you. *B.* For the Diſeaſes of both are alike. *M.* It ſeemeth ſo. *B.* For the redundance of things hurtful, and want or ſcarſity of things neceſſary are alike noxious to both, and both the one and other Body is Cured almoſt in the ſame manner, namely either by nouriſhing that which is extenuate and tenderly cheriſhing it, or by aſſwaging that which is full and redundant by caſting out ſuperfluities, and exerciſing the Body with moderate labours. *M.* It is ſo, but here ſeems to be the difference, that the humours in the one, and manners in the other are to be reduced into a right temperament. *B.* You underſtand it well, for the Body politick as well as the natural hath its own proper temperament, which I think very rightly we may call Juſtice. For it is that which doth regard every Member, and cureth it ſo as to be kept in its Function. This ſometimes is done by letting of Blood, ſometimes by expelling of hurtful things, as by egeſtion; and ſometimes exciting caſt down and timorous minds, and comforting the weak, and ſo reduceth the whole

Body into that temperament I ſpoke of: and being reduced, exerciſeth it with convenient exerciſes, and by a certain preſcribed temperature of Labour and reſt, doth preſerve the reſtored Health as much as can be. *M.* All the reſt I eaſily aſſent too, except that you place the temperament of the Body Politick in Juſtice: ſeeing temperance even by its very name and profeſſion doth juſtly ſeem to claim theſe parts. *B.* I think it is no great matter on which of them you confer this honour. For ſeeing all Vertues, whereof the ſtrength is beſt perceived in Action, are placed in a certain mediocrity and equability, ſo are they in ſome meaſure Connected amongſt themſelves, and cohere, ſo as it ſeems to be but one office in all, that is, the moderation of Luſts. Now in whatſoever kind this moderation is, it is no great matter how it be denominate: Albeit that moderation, which is placed in publick matters, and Mens mutual commerces doth ſeem moſt fitly to be underſtood by the name of Juſtice. *M.* Herein I very willingly aſſent to you. *B.* In the Creation of a King, I think the Ancients have followed this way, that if any among the Citizens where of any ſingular excellency, and ſeemed to exceed all others in Equity and Prudence, as is reported to be done in *Bee-Hives*, they willingly conferred the Government or Kingdom on him. *M.* It is credible to have been ſo. *B.* But what if none ſuch as we have ſpoken of, ſhould be found in the City? *M.* By that Law of Nature, whereof we formerly made mention, equals neither can, nor ought to Uſurp Dominion: For by Nature I think it Juſt, that amongſt theſe that are equal in all other things, their courſe of ruling and obeying ſhould be alike. *B.* What if a People, wearied with yearly Ambition be willing to Elect ſome certain Perſon not altogether endowed with all Royal Vertues, but either famous by his Noble Deſcent, or Warlike Valour? will you not think that he is a lawful King? *M.* Moſt lawful, for the People have Power to Confer the Government on whom they pleaſe. *B.* What if we ſhall admit ſome acute Man, yet not endowed with notable skil, for Curing Diſeaſes? ſhall we preſently account him a Phyſician, as ſoon as he is choſen by all? *M.* Not at all; for by Learning, and the Experients of many Arts, and not by ſuffrages is a Man made a Phyſician. *B.* What maketh Artiſts in other Arts? *M.* I think there is one reaſon of all. *B.* Do you think there is any Art of Reigning or not? *M.* Why not. *B.* Can you give me a reaſon why you think ſo? *M.* I think I can, namely that ſame which is uſually given in other Arts. *B.* What is that? *M.* Becauſe the beginnings of all Arts proceed from experience. For whilſt many did raſhly and without any reaſon undertake to Treat of many things, and others again through exercitation and conſuetude did the ſame more

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ſagaciouſly, noticing the events on both hands, and perpending the cauſes thereof, ſome acute Men have digeſted a certain order of precepts, and called that Deſcription an Art. *B.* Then by the like animadverſion may not ſome Art of Reigning be deſcribed, as well as the Art of Phyſick? *M.* I think there may. *B.* Of what precepts ſhall it conſiſt? *M.* I do not know at preſent. *B.* What if we ſhall find it out by comparing it with other Arts? *M.* What way? *B.* This way: There be ſome precepts of Grammar, of Phyſick and Husbandry. *M.* I underſtand. *B.* Shall we not call theſe precepts of Grammarians and Phyſicians Arts and Laws alſo, and ſo of others? *M.* It ſeems indeed ſo. *B.* Do not the Civil Laws ſeem to be certain precepts of Royal Art? *M.* They ſeem ſo. *B.* He muſt therefore be acquainted therewith, who would be accounted a King. *M.* It ſeems ſo. *B.* What if he have no skill therein? Albeit the People ſhall command him to Reign, think you that he ſhould be called a King? *M.* You cauſe me here to heſitate: For if I would conſent with the former diſcourſe, the ſuffrages of the People can no more make him a King, than any other Artiſt. *B.* What think you, ſhall then be done? For unleſs we have a King choſen by ſuffrages, I am afraid we ſhall have no lawful King at all. *M.* And I fear alſo the ſame. *B.* Will you then be content that we more acurately examine what we have laſt ſet down in comparing Arts one with another? *M.* Be it ſo, if it ſo pleaſe you. *B.* Have we not called the precepts of Artiſts in their ſeveral Arts, Laws? *M.* We have done ſo. *B.* But I fear we have not done it circumſpectly enough. *M.* Why? *B.* Becauſe he would ſeem abſurd who had skill in any Art, and yet not to be an Artiſt. *M.* It were ſo: *B.* But he that doth perform what belongs to an Art, we will account him an Artiſt, whether he do it naturally, or by ſome perpetual and conſtant Tenour and faculty. *M.* I think ſo. *B.* We ſhall then call him an Artiſt, who knows well this rational and prudent way of doing any thing well, providing he hath acquired that faculty by conſtant Practice. *M.* Much better than him who hath the bare precept without uſe and exercitation. *B.* Shall we not then account theſe precepts to be Art? *M.* Not at all, but a certain ſimilitude thereof, or rather a ſhadow of Art? *B.* What is then that Governing faculty of Cities, which we ſhall call Civil Art or Science? *M.* It ſeems you would call it Prudence: Out of which, as from a Fountain or Spring, all Laws, providing they be uſeful for the preſervation of humane Society, muſt proceed and be derived. *B.* You have hit the Nail on the Head; if this then were compleat and perfect in any perſon, we might ſay he were a King by Nature, and not by ſuffrages, and might reſign over to him a Free Power over all things: But if we

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find not such a man, we shall also call him a King, who doth come nearest to that Eminent excellency of Nature, embracing in him a certain similitude of a true King. *M.* Let us call him so, if you please. *B.* And because we fear he be not firm enough against inordinate affections, which may, and for the most part use to decline Men from Truth, we shall adjoyn to him the Law, as it were a Colleague, or rather a Bridler of his Lusts. *M.* You do not think that a King should have an Arbitrary Power over all things. *B.* Not at all: For I remember, that he is not only a King, but also a Man, Erring in many things by Ignorance, often failing willingly, doing many things by constraint: Yea a Creature easily changeable at the blast of every Favour or Frown, which natural Vice a Magistrate useth also to increase; so that here I chiefly find that of the Comedy made true. *All by License become worse.* Wherefore the most Prudent have thought it expedient to adjoyn to him a Law, which may either shew him the way, if he be ignorant, or bring him back again into the way, if he wander out of it: By these, I suppose, you understand, as in a representation, what I judge to be the duty of a true King. *M.* Of the cause of Creating Kings, of their name and duty you have fully satisfied me. Yet I shall not repine, if you please to add ought thereto. Albeit my mind doth hasten to hear what yet seems to remain, yet there is one thing which in all your discourse did not a little offend me, which I think should not be past over in silence, *viz.* That you seem somewhat injurious to Kings, and this very thing I did suspect in you frequently before, whilst I often heard you so profusely commend the Ancient Common-Wealths, and the City of *Venice*. *B.* You did not rightly herein judge of me. For I do not so much look to the different form of Civil Government (such as was amongst the *Romans*, *Massilians*, *Venetians*, and others, amongst whom the Authority of Laws were more Powerful, than that of Men) as to the equity of the form of Government; nor do I think it matters much, whether *King*, *Duke*, *Emperor*, or *Consul* be the name of him who is Chiefest in Authority, providing this be granted, that he is placed in the Magistracy for the maintainance of Equity, for if the Government be lawful we must not contend for the name thereof. For he whom we call the Duke of *Venice*, is nothing else but a lawful King: and the first Consuls did not only retain the Honours of Kings, but also their Empire and Authority, this only was the difference, that not one, but two of them did Reign (which also you know was usual in all the *Lacedemonian* Kings,) who were Created or Chosen not constantly to continue in the Government, but for one Year. We must therefore always stand to what we spoke at first,

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that Kings at first were instituted for maintaining equity. If they could have holden that soveraignty in the case they had received it, they might have holden and kept it perpetually; but this is free and loosed by Laws. But (as it is with human things, the State of affairs tending to worse, the soveraign Authority which was ordained for publick utility degenerated into a proud domination. For when the lust of Kings stood instead of Laws, and men being vested with an infinite and immoderate power, did not contain themselves within bounds, but connived at many things out of favour, hatred, or self interest, the insolency of Kings made Laws to be desired. For this cause therefore Laws were made by the People, and Kings constrained to make use, not of their own licencious Wills in judgment, but of that right or priviledge which the People had conferred upon them. For they were taught by many experiences, that it was better, that their liberty should be concredited to Laws than to Kings, whereas the one might decline many ways from the Truth, but the other being deaf both to intreaties and threats, might still keep one and the same tenor. This one way of Government is to Kings prescribed, otherwise free, that they should conform their actions and speech to the Prescripts of Laws, and by the sanctions thereof divide rewards and punishments, the greatest Bonds of holding fast together human Society. And lastly, even as saith that famous Legislator, *A King should be a speaking Law, and the Law a dumb King.* M. At first you so highly praised Kings, that you made their Majesty almost glorious and sacred, but now, as if you had repented in so doing, I do not know within what strait Bonds you shut them up, and being thrust into the Prison (I may say) of Laws, you do scarce give them leave to speak. And as for my part, you have disappointed me of my expectation very far. For I expected, that (according to the most famous Historians) you should have restored the thing which is the most glorious both with God and Man, into its own splendor, either of your own accord, or at my desire in the series in your discourse, which being spoiled of all Ornaments, you have brought it into subjection, and that Authority, which through all the World is the chiefest, you having hedged in round about and made it almost so contemptible, as not to be desired by any Man in his right wits. For what Man in his right wits would not rather live as a private Man with a mean fortune, than being still in action about other Mens Affairs, to be in perpetual trouble, and neglecting his own Affairs, to order the whole Course of his Life according to other Mens Rules? But if that be the Terms of Government every where proposed, I fear there will be a greater scarcity of Kings found, than was of Bishops in the first Infancy of our Religion. Nor do I much wonder, if

Kings

Kings be regarded according to this plate form, being but Men taken from Feeding Cattle, and from the Plough, who took upon them that glorious Dignity. *B.* Conſider I pray you, in how great an Error you are, who does think that Kings were Created by People and Nations not for Juſtice, but for pleaſure, and does think there can be no Honour, where Wealth and Pleaſures abound not; wherein conſider how much you diminiſh their Grandeur. Now that you may the more eaſily underſtand it; compare any one King of thoſe you have ſeen apparrelled like a Childs puppet brought forth with a great deal of Pride and a great many attendants, meerly for vain oſtentation, the repreſentation whereof you miſs in that King whom we deſcribe. Compare, I ſay, ſome one of thoſe, who were famous of old, whoſe memory doth even yet live, flouriſheth and is renowned to all Poſterity. Indeed they were ſuch as I have now been deſcribing. Have you never heard what an old woman petitioning *Philip* King of *Macedon* to hear her Cauſe, anſwered him, he having ſaid to her, he had no leaſure, to which ſhe replied, then ceaſe, (ſaid ſhe) to be King? have you never heard, (I ſay) that a King victorious in ſo many Battles, and Conqueror of ſo many Nations, admoniſhed to do his duty by a Poor old wife, obeyed, and acknowledged that it was the duty of Kings ſo to do? Compare then this *Philip* not only with the greateſt Kings that are now in *Europe*, but alſo with all that can be remembred of old, you ſhall ſurely find none of them comparable to thoſe either for Prudence, Fortitude, or activity; few equal to them for largeneſs of Dominions. If I ſhould enumerate *Ageſilaus*, *Leonidas*, and the reſt of the *Lacedemonian* Kings (O how great Men were they) I ſhall ſeem to utter but obſolete Examples. Yet one ſaying of a *Lacedemonian* Maid I cannot paſs over with ſilence, her Name was *Gorgo* the Daughter of *Cleomedes*, ſhe ſeeing a Servant pulling off the Stockings of an *Aſian Ghueſt*, and running to her Father cry'd out, Father, the Ghueſt hath no Hands; from which Speech of that Maid you may eaſily judge of the *Lacedemonian* diſcipline and domeſtick Cuſtom of their Kings. Now thoſe who proceeded out of this ruſtick, but couragious way of life, did very great things: but thoſe who were bred in the *Aſiatick* way, loſt by their luxury and ſloth the great dominions given their Anceſtors. And, that I may lay aſide the Ancients. Such a one was *Pelagius* not long ago among the People of *Galicia*, who was the firſt that weakned the *Saracen* forces in *Spain*, yet him and all his the Grave did incloſe, yet of him the *Spaniſh* Kings are not aſhamed, accounting it their greateſt glory to be deſcended of him. But ſeeing this place doth call for a more large diſcourſe, let us return from whence we have digreſſed

greſſed. For I deſire to ſhew you with the firſt that I promiſed, namely that this form of Government hath not been contrived by me, but ſeems to have been the ſame to the moſt famous men in all Ages, and I ſhall ſhew briefly you the ſpring from whence I have drawn theſe things. The Books of *M. Tullius Cicero* which are intitled of *Offices* are by common conſent of all accounted moſt praiſe worthy, in the ſecond Book thereof theſe words are ſet down *verbatim*, it ſeems as *Herodotus* ſaith that of old, well bred Kings were created, not amongſt the *Medes* only, but alſo amongſt our Anceſtors for executing of Juſtice, for whilſt at firſt the People were oppreſſed by thoſe that had greateſt wealth, they betook themſelves to ſome one who was eminent for vertue, who whilſt he kept off the weakeſt from injuries, eſtabliſhing equity, he hemmed in the higheſt with the loweſt by equal Laws to both. And the reaſon of making Laws was the ſame as of the Creation of Kings, for it is requiſite that juſtice be always equal, for otherwiſe it were not juſtice. If this they did obtain from one good and juſt Man, they were therewith well pleaſed, when they did not occur, Laws were made, which by one and the ſame voice might ſpeak to all alike. This then indeed is evident, that thoſe were uſually choſen to govern, of whoſe juſtice the People had a great opinion. Now this was added, that theſe Rulers or Kings might be accounted prudent, there was nothing that Men thought they could not obtain from ſuch Rulers. I think, you ſee from theſe words, what *Cicero* judgeth to be the reaſon of requiring both Kings and Laws. I might here commend *Xenophon* a witneſs requiring the ſame, no leſs famous in War-like affairs, than in the ſtudy of Phyloſopy, but that I know you are ſo well acquainted with his Writings, as that you have all his ſentences marked. I paſs at preſent *Plato* and *Ariſtotle*; albeit I am not ignorant how much you have them in eſtimation. For I had rather adduce for confirmation Men famous in a middle degree of affairs, than out of Schools. Far leſs do I think fit to produce a Stoick King, ſuch as by *Seneca* in *Thyeſtes* is deſcribed: Not ſo much becauſe that Idea of a King is not perfect, as becauſe that Examples of a good Prince may be rather impreſſed in the Mind, than at any time hoped for. But leſt in thoſe I have produced there might be any ground of calumny, I have not ſet before you Kings out of the *Scythian* ſolitude, who did either ungird their own Horſes, or did other ſervile work, which might be very far from our manner of living: but even out of *Greece*, and ſuch, who in theſe very times, wherein the *Grecians* did moſt flouriſh in all liberal Sciences, did rule the greateſt Nations, or well governed Cities; and did ſo rule, that whilſt they were alive were in very great eſteem amongſt their People, and being dead left to Poſterity a famous

memory of themſelves. *M.* If now you ask me what my judgment is, I ſcarce dare confeſs to you either mine inconſtancy or timidity, or by what other name it ſhall pleaſe you to call that vice. For as often as I read theſe things you have now recited in the moſt famous Hiſtorians, or hear the ſame commended by very wiſe Men, whoſe Authority I dare not decline: and that they are approved by all good and honeſt Men to be not only true, equitable and ſincere, but alſo ſeem ſtrong and ſplendid. Again as oft as I caſt mine Eyes on the neatneſs and elegancy of our times, that antiquity ſeemeth to have been venerable and ſober, but yet rude, and not ſufficiently poliſhed, but of theſe things we may perhaps ſpeak of hereafter at more leaſure. Now if it pleaſe you, go on to proſecute what you have begun. *B.* May it pleaſe you then that we recollect briefly what hath been ſaid? ſo ſhall we underſtand beſt what is paſt, and if ought be raſhly granted, we ſhall very ſoon retract it. *M.* Yes indeed. *B.* Firſt of all then we agree, that Men by nature are made to live in ſociety together, and for a communion of life. *M.* That is agreed upon. *B.* That a King alſo choſen to maintain that ſociety is a Man eminent in Vertue. *M.* It is ſo. *B.* And as the diſcords of Men amongſt themſelves brought in the neceſſity of creating a King, ſo the Injuries of *Kings* done againſt their Subjects were the cauſe of deſiring Laws. *M.* I acknowledg that. *B.* We held Laws to be a Proof of the Art of Government, even as the Precepts of Phyſitians are of the Medicinal Art. *M.* It is ſo. *B.* But it ſeems to be more ſafe (becauſe in neither of the two have we ſet down any ſingular and exact Skill of their ſeveral Arts) that both do, as ſpeedily as may be, heal by theſe Preſcripts of Art. *M.* It is indeed ſafeſt. *B.* Now the Precepts of the Medicinal Art are not of one kind. *M.* How? *B.* For ſome of them are for preſervation of health, others for reſtoration thereof. *M.* Very right. *B.* What ſay you of the governing Art? *M.* I think there be as many kinds. *B.* Next then it ſeems, that we conſider it. Do you think, that Phyſitians can ſo exactly have Skill of all diſeaſes and of their remedies, as nothing more can be required for their cure? *M.* Not at all, for many new kinds of Diſeaſes ariſe almoſt in every Age, and new remedies for each of them, almoſt every year are by Men's Induſtry found out, or brought from far Countries. *B.* What think you of the Laws of Commonwealths. *M.* Surely their caſe ſeems to be the ſame. *B.* Therefore neither Phyſitians, nor *Kings* can evite or cure all Diſeaſes of Common-wealths, by the Precepts of their Arts, which are delivered to them in Writ. *M.* I think indeed they cannot. *B.* What if we ſhall farther try of what things Laws may be eſtabliſhed in Common-wealths, and what cannot be comprehended within Laws. *M.* That will be

worth

worth our pains. *B.* There seems to be very many and weighty things, which cannot be contained within Laws. First, all such things, as fall into the deliberation of the time to come. *M.* All indeed. *B.* next, many things already past, such are these wherein truth is sought by conjectures, confirmed by Witnesses, or extorted by Torments. *M.* Yes indeed. *B.* In unfolding then these Questions, what shall the King do? *M.* I see here there is no need of a long discourse, seeing Kings do not so arrogate the Supream Power in those things which are instituted with respect to the time to come, that of their own accord they call to Council some of the most prudent. *B.* What say you of those things which by conjectures are found out, and made out by Witnesses, such as are the Crimes of Murther, Adultery and Witchcraft? *M.* These are examined by the skill of Lawyers, discovered by diligence, and these I find to be for the most part left to the judgment of Judges. *B.* And perhaps very right; for if a King would needs be at the private causes of each Subject, when shall he have time to think upon Peace and War, and those affairs which maintain and preserve the safety of the Common-wealth? And lastly when shall he get leave to rest? *M.* neither would I have the cognition of every thing to be brought unto a King, neither can one man be sufficient for all the causes of all men, if they be brought unto him: that Council no less wise than necessary doth please me exceeding well, which the Father in Law of *Moses* gave him in dividing amongst many the Burden of hearing Causes, whereof I shall not speak much, seeing the History is known to all. *B.* But I think, these Judges must Judg according to Law. *M.* They must indeed do so. But as I conceive, there be but few things, which by Laws may be provided against, in respect of those which cannot be provided against.

B. There is another thing of no less difficulty, because all these things which call for Laws, cannot be comprehended by certain prescriptions. *M.* How so: *B.* Lawyers, who attribute very much to their own Art, and who would be accounted the Priests of Justice, do confess that there is so great a multitude of affairs, that it may seem almost infinite, and say that daily arise new crimes in Cities, as it were several kinds of Ulcers, what shall a Law-giver do herein, who doth accommodate Laws both to things present and preterite? *M.* Not much, unless he be some Divine-like Person. *B.* Another difficulty doth also Occur, and that not a small one, that in so great an Inconstancy of humane Frailty, no Art can almost prescribe any thing altogether stable and firm. *M.* There is nothing more true than that. *B.* It seemeth then most safe to trust a skilful Physician in the Health of the Patient, and also the King in the State of the Com-

mon-wealth. For a Phyſitian without the rule of Art will oftentimes Cure a weak Patient, either by conſenting thereto, or againſt his will: And a King doth either perſwade a new Law uſeful to his Subjects, or elſe may impoſe it againſt their will. *M.* I do not ſee what may hinder him therein. *B.* Now ſeeing both the one and the other do theſe things, do you think that beſides the Law, either of them makes his own Law? *M.* It ſeems that both doth it by Art. For we have before concluded not that to be Art which conſiſts of precepts, but Vertue contained in the mind, which the Artiſt uſually makes uſe of in handling the matter which is ſubject to Arts. Now I am glad (ſeeing you ſpeak ingenuouſly) that you being conſtrained, as it were, by an interdiction of the very truth, do ſo far reſtore the King from whence he was by force dejected. *B.* Stay, you have not yet heard all. There is another inconvenience in the Authority of Laws. For the Law being as it were a pertinacious, and a certain rude Exactor of duty, thinks nothing right, but what it ſelf doth command. But with a King, there is an excuſe of Infirmity and Temerity, and place of Pardon left for one found in an Error. The Law is Deaf, Cruel and Inexorable. A Young man Pleads the frailty of his Years, a Woman the infirmity of Her Sex, another his Poverty, Drunkenneſs, Affection. What ſaith the Law to theſe excuſes? Go Officer or Serjeant, convene a Band of Men, Hoodwink him, Scourge him, Hang him on a Tree. Now you know how dangerous a thing it is, in ſo great a Humane frailty, to have the hope of Safety placed in Innocency alone. *M.* In very Truth you tell me a thing full of Hazard. *B.* Surely as oft as theſe things come into mind, I perceive ſome not a little troubled. *M.* You ſpeak true. *B.* When therefore I ponder with my ſelf what is before paſt as granted, I am afraid leſt the compariſon of a Phyſitian and of a King in this caſe ſeem not pertinently enough introduced. *M.* In what caſe? *B.* When we have liberated both of the ſervitude of precepts, and given them almoſt a free liberty of Curing. *M.* What doth herein eſpecially offend you? *B.* When you hear it, you will then judge. Two cauſes are by us ſet down, why it is not expedient for a People that Kings be looſed from the bonds of Laws, namely, love and hatred, which drive the minds of Men to and fro in judging. But in a Phyſitian it is not to be feared, leſt he fail through love, ſeeing he expecteth a reward from his Patient being reſtored to Health. But if a Patient underſtand that his Phyſitian is ſolicited by Intreaties, Promiſes and Mony againſt his Life, he may call another Phyſitian, or if he can find none other, I think it is more ſafe to ſeek ſome remedy from Books how Deaf ſoever, than from a corrupt Phyſitian. Now becauſe

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we have complained of the Cruelty of Laws, look if we understand one another sufficiently. *M.* How so? *B.* We judged an excellent King, such as we may more see in mind, than with Bodily Eyes, not to be bound by any Laws. *M.* By none. *B.* Wherefore? *M.* I think, because, according to *Paul*, he should be a Law to himself and to others, that he may express in life what is by Law enjoyned. *B.* You judge rightly; and that you may perhaps the more admire, several Ages before *Paul*, *Aristotle* did see the same, following Nature as a Leader, which therefore I say, that you may see the more clearly what hath been proved before, to wit, that the Voice of God and Nature is the same. But that we may prosecute our purpose. What shall we say they had a respect unto, who first made Laws? *M.* Equity I think, as hath been said before. *B.* I do not now demand that, what end they had before them, but rather what pattern they proposed to themselves? *M.* Albeit perhaps I understand that, yet I would have you to explain it, that you may confirm my judgment, if I rightly take it up, if not, you may amend my Error. *B.* You know, I think, what the dominion is of the mind over the Body. *M.* I seem to know it. *B.* You know this also, what ever we do not rashly, that there is a certain *Idea* thereof first in our minds, and that it is a great deal more perfect than the works to be done, which according to that Pattern the chiefest Artists, do frame, and as it were express. *M.* That indeed I find by experience both in speaking and writing, and perceive no less words in my mind, than my mind in things wanting. For neither can our mind, shut up in this dark and troubled Prison of the Body, perceive the subtilty of all things; nor can we so endure in our mind the representation of things however foreseen in discourse with others, so as they are not much inferiour to these which our intellect hath formed to it self. *B.* What shall we say then which they set before them, who made Laws? *M.* I seem almost to understand what you would be at. Namely, that they in Council had an *Idea* of that perfect King, and that they did express a certain Image, not of the Body but of the mind, according to that foresaid *Idea*, as near as they could. And would have that to be instead of Laws which he is to think might be good and equitable. *M.* You rightly understand it. For that is the very thing I would say. But now I would have you to consider what manner of King that is which we have constitute at first, was he not one firm and stedfast against Hatred, Love, Wrath, Envy, and other perturbations of the mind? *M.* We did indeed imagine him to be such a one: Or believed him to have been such to those Ancients. *B.* But do Laws seem to have been made according to the *Idea* of him? *M.* Nothing

thing more likely. *B.* A good King then is no less severe and inexorable, than a good Law. *M.* He is even as severe; But since I can change neither, or ought to desire it, yet I would slacken both somewhat, if I can. *B.* But God desires not that mercy be shewed even to the Poor in judgment, but commandeth us to respect that one thing which is Just and Equal, and to pronounce Sentence accordingly. *M.* I do acknowledge that, and by truth am overcome. Seeing therefore it is not lawful to loose Kings from the Bonds of Laws, who shall then be the Law-giver? Whom shall we give him as a Pedagogue? *B.* whom do you think fittest to perform this duty? *M.* If you ask at me. I think the King himself. For in all other Arts almost we see their precepts are given by the Artists; whereof they make use, as it were of comments, for confirming their Memory, and putting others in mind of their duty. *B.* On the contrary I see no difference: Let us grant that a King is at liberty and solved from the Laws, shall we grant him the Power to command Laws? For no Man will willingly lay Bonds and Fetters upon himself. And I know not whether it be better to leave a Man without Bonds, or to Fetter him with slight Bonds, because he may rid himself thereof when he pleases. *M.* But when you concredit the Helm of Government rather to Laws than to Kings, beware I pray you, lest you make him a Tyrant, whom by name you make a King, who with Authority doth oppress and with Fetters and Imprisonment doth bind, and so let him be sent back to the Plough again, or to his former condition, yet free of Fetters. *B.* Brave words: I impose no Lord over him, but I would have it in the Peoples Power, who gave him the Authority over themselves, to prescribe to him a Model of his Government, and that the King may make use of that Justice, which the People gave him over themselves. This I crave. I would not have these Laws to be by force imposed, as you interpret it, but I think that by a Common Council with the King, that should be generally established, which may generally tend to the good of all. *M.* You will then grant this Liberty to the People? *B.* Even to the People indeed, unless perhaps you be of another mind. *M.* Nothing seems less equitable. *B.* Why so? *M.* You know that saying, a Beast with many Heads. You know, I suppose, how great the temerity and inconstancy of a People is. *B.* I did never imagine that that matter ought to be granted to the judgment of the whole People in general, but that near to our Custom, a select number out of all Estates may convene with the King in Council. And then how soon an overture by them is made, that it be deferred to the Peoples judgment. *M.* I understand well enough your advice. But by this so careful a Cau-

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tion you ſeem to help your ſelf nothing. You will not have a King looſed from Laws, why? Becauſe, I think, within Man two moſt Cruel Monſters luſt and wrath are in a continual conflict with reaſon. Laws have been greatly deſired, which might repreſs their boldneſs, and reduce them too much inſulting, to regard a juſt Government. What will theſe Counſellors given by the People do? Are they not troubled by that ſame inteſtine conflict? Do they not conflict with the ſame evils as well as the King? The more then you adjoyn to the King as Aſſeſſors, there will be the greater number of Fools, from which you ſee what is to be expected. *B.* But I expect a far other thing than you ſuppoſe. Now I ſhall tell you why I do expect it. Firſt, it is not altogether true what you ſuppoſe, *viz.* That the Aſſembling together of a multitude is of no purpoſe, of which number there will perhaps be none of a profound wit: for not only do many ſee more and underſtand more than one of them apart, but alſo more than one, albeit he exceed their wit and prudence. For a multitude for the moſt part doth better judge of all things, than ſingle perſons apart. For every one apart have ſome particular Vertues, which being United together make up one excellent Vertue, which may be evidently ſeen in Phyſicians Pharmacies, and eſpecially in that Antidote, which they call Mithredate. For therein are many things of themſelves hurtful apart, which being compounded and mingled together make a wholeſom Remedy againſt Poyſon. In like manner in ſome Men ſlowneſs and lingring doth hurt, in others a Pricipitant Temerity, both which being mingled together in a multitude make a certain Temperament and Mediocrity, which we require to be in every kind of Vertue. *M.* Be it ſo, ſeeing you will have it ſo, let the People make Laws and Execute them; and let Kings be as it were Keepers of Regiſters. But when Laws ſeem to Claſh, or are not exact and perſpicuous enough in Sanctions, will you allow the King no intereſt or medling here, eſpecially ſince you will have him to judge all things by written Laws, there muſt needs enſue many abſurdities. And, that I may make uſe of a very common example of that Law commended in the Schools. If a Stranger ſcale a Wall, let him die. What can be more abſurd than this, that the Author of a publick ſafety (who have thruſt down the enemies preſſing hard to be up) ſhould be drawn to puniſhment, as if he had in Hoſtility attempted to ſcall the walls. *B.* That is nothing. *M.* You approve then that old ſaying, the higheſt juſtice is the higheſt injury. *B.* I do indeed. If any thing of this kind come into debate, there is need of a meek interpreter, who may not ſuffer the Laws which are made for the good of all to be calamitous to good Men, and deprehend in no Crime. *B.* You

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are very right, neither is there any thing elſe by me ſought in all this diſpute, (if you have ſufficiently noticed it) than that Ciceronian Law might be venerable and inviolable. *Salus Populi ſuprema Lex eſto.* If then any ſuch thing ſhall come into debate, ſo that it be clear what is good and juſt, the Kings duty will be to advert that the Law may reach that Rule I ſpoke of, but you in behalf of Kings ſeem to require more, than the moſt imperious of them aſſume. For you know that theſe kind of Queſtions is uſually referred to Judges, when Law ſeemeth to require one thing, and the Law-giver another; even as theſe Laws which ariſe from an ambiguous right, or from the Diſcord of Laws amongſt themſelves. Therefore in ſuch caſes moſt grievous contentions of Advocates ariſe in Judicatories, and Orators precepts are diligently produced. *M.* I know that to be done which you ſay. But in this Caſe no leſs Wrong ſeems to be done to Laws than to Kings. For I think it better to end that Debate preſently, from the Saying of one good Man, than to grant the Power of darkning, rather than interpreting Laws to ſubtle Men, and ſometimes to crafty Knaves; for whilſt not only Contention ariſeth betwixt Advocate for the Cauſes of Parties contending, but alſo for Glory, Conteſts are nouriſhed in the mean time, Right or Wrong, Equity or Inequity is called in queſtion; and what we deny to a King, we grant to Men of inferior Rank, who ſtudy more to debate, than to find out the Truth. *B.* You ſeem to me forgetful of what we lately agreed upon. *M.* What is that? *B.* That all things are to be ſo freely granted to an excellent King, as we have deſcribed him, that there might be no need of any Laws. But whilſt this honour is conferred to one of the People, who is not much more excellent than others, or even inferior to ſome, that free and looſe Liſence from Laws is dangerous. *M.* But what ill doth that to the interpretation of Law. *B.* Very much. Perhaps you do not conſider, that in other words we reſtore to him that infinite and immoderate Power, which formerly we denied to a King, namely, that according to his own Hearts luſt he may turn all things upſide-down. *M.* If I do that, then certainly I do it imprudently. *B.* I ſhall tell you more plainly, that you may underſtand it. When you grant the interpretation of Laws to a King, you grant him ſuch a Licence, as the Law doth not tell what the Law giver meaneth, or what is good and equal for all in general, but what may make for the Interpreters benefit, ſo that he may bend it to all actions for his own benefit or advantage, as the *Lesbian* Rule. *Ap. Claudius* in his *Decemviratus*, made a very juſt Law, that in a liberal Cauſe or Plea, ſureties ſhould be granted for liberty. What more clearly could have been ſpoken. But by interpreting the ſame

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Author made his own Law uſeleſs. You ſee; I ſuppoſe how much liberty you give a Prince by one caſt, namely, that what he pleaſeth the Law doth ſay, what pleaſeth him not, it doth not ſay. If we ſhall once admit this, it will be to no purpoſe to make good Laws for teaching a good Prince his duty; and hemm in an ill King. Yea let me tell you more plainly, it would be better to have no Laws at all, than that freedom to ſteal ſhould be tolerate, and alſo honoured under pretext of Law. *M.* Do you think that any King will be ſo impudent, that he will not at all have any regard of the fame and opinion that all Men have of him? Or that he will be ſo forgetful of his Subjects, that he will degenerate into their Pravity, whom he hath reſtrained by ignominy, impriſonment, confiſcation of Goods, and in a word with very grievous puniſhments? *B.* Let us not believe that theſe things will be, if they had not been done long ago, and that to the exceeding great hurt of the whole World. *M.* Where do you tell theſe things were done? *B.* Do you ask, where? As if all the Nations in Europe did not only ſee, but feel alſo how much miſchief hath the immoderate Power, and unbridled Tyranny of the *Pope* of *Rome* brought upon human Affairs. Even that Power which from ſmall beginning and ſeemingly honeſt he had got, every Man doth know that no leſs can be feared by unwary Perſons. At firſt, Laws were propoſed to us, not only drawn out of the innermoſt ſecrets of Nature, but given by God himſelf, explained by the Prophets from the holy Spirit, at laſt by the Son of God, and by the ſame God confirmed, committed to the writings of thoſe praiſe worthy men, expreſſed in their Life, and ſealed with their Blood. Neither is there in the whole Law any other place more carefully, commendably, or more clearly delivered, than that of the Office of Biſhops. Now ſeeing it is lawful to no man to add any thing to theſe Laws, to abrogate or derogate ought therefrom, or to change any thing therein, there did remain but one interpretation, and whilſt the Pope did arrogate it, he not only did oppreſs the reſt of the Churches, but claimed a Tyranny the moſt cruel of all that ever were, daring to command not only Men but Angels alſo, plainly reducing Chriſt into order, if this be not to reduce him into order, that what thou wilt have done in Heaven, in Earth and amongſt the damned in Hell, be ratified: what Chriſt hath commanded, let it be ratified, if thou wilt; for if the Law ſeem to make but little for your behoof, interpreting it thus you may back bend it, ſo that not only by your Mouth, but alſo according to the judgment of your Mind Chriſt is conſtrained to ſpeak. Chriſt therefore ſpeaking by the Mouth of the Pope, *Pipin* is ſet in *Childericks* place of Government, *Ferdinandus* of *Arra-*

gon ſubſtitute to *John* King of *Navare*: the Son aroſe in Arms againſt his Father, and Subjects againſt their King. Chriſt is full of Poyſon, then he is forced by Witches, ſo that he killeth *Henry* of *Luxemburg* by Poyſon. *M.* I have heard theſe things often before, but I deſire to hear more plainly ſomewhat of that interpretation of Laws. *B.* I ſhall offer you one Example, from which you may eaſily underſtand, how much this whole kind is able to do. The Law is, a Biſhop muſt be the Husband of one Wife, than which Law what is more clear, and what may be ſaid more plain? One Wife, (ſaith the Law) one Church, (ſaith the Pope) ſuch is his interpretation. As if that Law were made not to repreſs the Luſts of Biſhops but their Avarice. Now this Explanation, albeit it ſaith nothing to the purpoſe, yet doth contain a judgment honeſt and pious, if he had not vitiated that Law again by another interpretation. What doth therefore the Pope deviſe for excuſe? It varieth (ſaith he) in regard of perſons, caſes, places and times. Some are of that eminent diſpoſition, that no number of Churches can ſatisfie their Pride. Some Churches again are ſo poor, that they cannot maintain him who was lately a begging Monk, if he have now a Mitre, if he would maintain the name of a Biſhop. There is a reaſon invented from that crafty interpretation of the Law, that they may be called Biſhops of one Church, or other Churches given them in *Commendam*, and all may be robbed. Time would fail me, if I ſhould reckon up the cheats, which are dayly excogitate againſt one Law. But albeit theſe things be moſt unbeſeeming as well the name of a Pope, as of a Chriſtian, yet their Tyranny reſts not here. For ſuch is the nature of all things, that when they once begin to fall they never ſtay until they fall headlong into deſtruction. Will you have me to ſhew you this by a famous Example? Do you not remember upon any of the *Roman* Emperors blood who was more cruel and wicked than *C. Caligula*? *M.* There was none that I know of. *B.* Now what was his moſt nefarious villany think you? I do not ſpeak of thoſe deeds which Popes do reckon up in ſome reſerved caſes, but in the reſt of his life. *M.* I do not at preſent remember. *B.* What do you think of that, that having called upon his Horſe, he invited him to ſup with him? Set a golden grain of Barley before him, and made him Conſul? *M.* Indeed it was moſt impiouſly done. *B.* What think you of that, how he made the ſame Horſe his Colleague in the Prieſthood? *M.* Do you tell me that in good earneſt? *B.* Indeed in good earneſt, nor do I admire that theſe things ſeem to you feigned. But that *Roman Jupiter* of ours hath done ſuch things, that thoſe things done by *Caligula* may ſeem true to Poſterity. I ſay Pope *Julius* the third, who ſeems contending with *C. Caligula*

ligula a moſt wicked wretch for prehemincy of impiety. *M.* What did he of that Kind? *B.* He made his Ape-keeper, a Man almoſt more vile than the vileſt Beaſt, his Colleague in the Papary. *M.* Perhaps there was another cauſe of chooſing him. *B.* Some are reported indeed, but I have picked out the moſt honeſt. Seeing then ſo great a contempt not only of the Prieſthood, but alſo a forgetfulneſs of humanity ariſe from this freedom of interpreting Laws, beware you think that to be a ſmall Power. *M.* But the Antients ſeem not to have thought it ſo great a buſineſs of interpreting, as you would have it ſeem to be. Which by by this one argument may be underſtood, becauſe the *Roman* Emperours granted it to Lawyers: which one reaſon doth overturn your whole tedious diſpute, nor doth it only refute what you ſpoke of the greatneſs of that Power, but alſo that which you moſt ſhun, it perſpicuouſly declareth, what Power they granted to others of anſwering rightly, was not denied to themſelves, if they had been pleaſed to exerce that office, or could have done it by reaſon of greater affairs. *B.* As for thoſe *Roman* Emperours, whom the Soldiers did chooſe indeliberately, and without any regard to the common good of all. Theſe fall not under this notion of Kings which we have deſcribed, ſo that by thoſe that were moſt wicked were they chooſen who for the moſt part were moſt wicked, or elſe laid hold upon the Government by violence. Now I do not reprehend them for granting Power to Lawyers to interpret the Law. And albeit that Power be very great, as I have ſaid before, it is notwithſtanding more ſafely concredited to them to whom it cannot be an inſtrument of Tyranny. Moreover it was concredited to many whom mutual reverence did hold within the bounds of duty, that if one decline from equity, he might be refuted by another, And if they ſhould have all agreed together into fraud, the help of the Judge was above them, who was not obliged to hold for Law what ever was given by Lawyers for an Anſwer. And over all was the Emperour, who might puniſh the breach of Laws. They being aſtricted by ſo many Bonds were hemmed in, and did fear a more grievous puniſhment, than any reward of fraud they could expect: you ſee, I ſuppoſe then that the danger to be feared from ſuch kind of Men was not ſo great. *M.* Have you no more to ſay of a King? *B.* Firſt, if you pleaſe, let us collect together, what is already ſpoken, ſo that the more eaſily we may underſtand, if any thing be omitted. *M.* I think we ſhould do ſo. *B.* We ſeemed to be at accord ſufficiently concerning the origine and cauſe of creating Kings, and making Laws, but of the Lawgiver not ſo: but at laſt, though ſomewhat unwillingly I ſeem'd to have conſented, being enforced by the ſtrength of

Truth. *M.* Certainly you have not only taken from a King the Power of commanding Laws, but alſo of interpreting them, even whilſt I as an Advocate ſtrongly proteſted againſt it. Wherein I am afraid, if the Matter come to publick hearing, leſt I be accuſed of Prevarication, for having ſo eaſily ſuffered a good Cauſe, as it ſeemed at firſt, to be wrung out of my Hands. *B.* Be of good Courage, for if any accuſe you of Prevarication in this Caſe, I promiſe to be your Defence. *M.* Perhaps we will find that ſhortly. *B.* There ſeems to be many kinds of Affairs which can be comprehended within no Laws, whereof we laid over a part on ordinary Judges, and a part on the Kings Council by the Kings Conſent. *M.* I do remember we did ſo indeed. And when you was doing that, wot you what came into my Mind? *B.* How can I, unleſs you tell me? *M.* Methought you made Kings in a manner like Stone Seals, which for the moſt part ſo ſeem to lean on the Tops of Pillars, as if they did ſuſtain the whole Fabrick: whereas in effect they bear no more Burthen than any other Stone. *B.* What! good Advocate of Kings, do you complain that I lay on them a little Burthen, ſeeing both Day and Night they do nothing elſe than ſeek out others to bear Burthen with them, or upon whom they may altogether lay the Burthen, and ſo disburden themſelves. And in the mean time you ſeem to take it in ill part, that I afford them Help, labouring under their Burthen. *M.* I alſo very willingly admit theſe Auxiliaries, but ſuch would I have as may ſerve, but not command, ſuch as may ſhew the way, but not lead in the way, or more truly draw or ruſh them forward as ſome warlike Engine, and leave a King no other Power but to aſſent to them. Therefore I preſently expect, that having ended our Diſcourſe concerning a King, you would ſtep aſide to ſpeak of Tyrants, or ſome where-elſe. For you have incloſed a King within ſo narrow Bounds, that I am afraid, leſt, if we tarry longer therein, you drive him out of his greateſt Wealth and higheſt Dignity, and baniſh him as it were into ſome deſert Iſland, where being ſpoiled of all his Honours, he wax old in Poverty and Miſery. *B.* You feared, as you pretend, the Crime of Prevarication; but I am afraid, leſt in calumniating you wrong the King, whom you endeavour to defend. Firſt, I would not have him to be idle, unleſs you would appoint idle Maſter-builders: Secondly, you deprive him of good Miniſters and Friends, whom I have adjoyned unto him, not as Keepers, but would have them called by him to bear a part of his Labour, and theſe being driven away, you ſurround him with a Band of Knaves, who make him to be feared by his Subjects, neither do you think he will

will be formidable, unleſs we allow him a great Power of doing Wrong. I would have him to be by his Subjects beloved, not to be guarded by the Terror, but good Will of his Subjects, which Arms alone do make Kings Invincible, unleſs you gainſay this, I truſt I ſhall ſhortly prove it. For I ſhall lead him out of theſe you call Straits into Light; and by one Law ſhall give him ſo much Authority and Enlargement, that if he deſires more, he may ſeem impudent. *M.* Indeed I long to hear that. *B.* I ſhall then fall upon that Matter, that I may ſatifie your Deſire as ſoon as I can. A little before we have confeſſed, that no Law can be ſo accurately cautioned concerning any Affair, but that malicious Subtlety may invent ſome Fraud. This perhaps will be the better underſtood by the Example already propoſed. By the Law, it is ordained, that no Parents tranſmit their Benefices to their Baſtards. Here in effect the Law ſeems clear, yet a Cheat is found out; that the Father ſubſtitutes ſome other Man, and that he may deliver that ſame Benefice to the Baſtard of the former Poſſeſſor. Thereafter, when as it was carefully ordained by Law, that the Son ſhould by no means enjoy that Benefice which his Father had poſſeſſed before: yet by this Caution it was never a whit the better. For againſt that Law a Paction was found out among Prieſts, that each of them ſhould ſubſtitute the Son of the other in his Office. And when that was alſo forbidden, the Law was alſo eluded by another kind of Cheat: a pretender was ſet up againſt the Father, who might pretend he had a Right to that Benefice. Whilſt the Father ſeemingly is a contending with this ſuppoſed Sycophant, the Son doth petition the Pope for the Benefice, if ſo be that the Right unto that Benefice belong not to either of the Parties contending for it, and ſo the Son, by his Fathers Prevarication, doth enjoy his Fathers Benefice, and overcometh both the Parties, who willingly and freely yield up their Plea. Thus you ſee how many kinds of Cheats are invented againſt one Law. *M.* I ſee it. *B.* Do not Lawgivers ſeem to do altogether the ſame herein which Phyſicians do, who whilſt they endeavour, by applying a Plaiſter to compeſce the Eruptions of Flegm, or of ſome other hurtful Humor, the Humor reſtrained in one place, ſeeks Iſſue in many places at once; and as a certain Hydra having one Head cut off, many Heads ſtart up in place of one. *M.* Nothing more like. *B.* What was incumbent for a Phyſitian to do at firſt, for freeing the whole Body at once of peccant Humors, ought not the Politick Phyſitian do the ſame in this Caſe, for freeing the whole Common-wealth of evil Manners? *M.* I think that to be the right way of Cure, albeit it be difficult. *B.* And if this can be obtained,

ed, I think there would be need of few Laws. *M.* It is indeed so. *B.* Doth not he alone seem to confer more for the Publick Good, who can apply this Remedy, than all the Conventions of all Estates met for making of Laws? *M.* Doubtless far more. But that I may make use of the Comick Poets Words, Who is able to undertake so weighty a Charge? *B.* What if we shall lay it over on the King? *M.* Merrily spoken indeed. What was soon done and easie, you have committed to the whole People; but if any thing be difficult and intricate, you will lay it over upon the King alone, as if you thought him not sufficiently bound, tying him round about with so many Fetters, unless you lay upon him a most grievous Burthen, under which he may also succumb. *B.* It is not so, but we contend for a Business easie for him to be done; we beseech, he would suffer himself to be exorable. *M.* What is that, I pray? *B.* That as Fathers ought to carry towards their Children, so in all his Life he would behave himself towards his Subjects, whom he ought to account as Children. *M.* What is that to the purpose in hand? *B.* Surely this one is certainly the chiefest Remedy against corrupt Manners, and lest you suppose that it is an Invention of mine, here what *Claudianus* saith. Thou King, must as a Father Rule thy Subjects, and no less have a care of all than of thy self; let not thy own Desire only move thee, but also the Publick Desires of thy People. If thou commandest, ought to be done by all, and to be obeyed, obey the same first thy self. Then will the People become the more observant of Equity; nor will refuse to bear any Burthen, when they see their King himself obedient to what he commands. The whole World doth act conform to the Example of a King. The Laws of Kings prevail not so much to incline Mens Minds unto Obedience, as the Conversation of the Rulers. For the fluctuating Multitude doth always change as their Prince doth. Do not Imagine that the Poet pregnant for understanding and learning did in vain believe so great force to be herein, for People are so addicted to the imitation of Kings, in whom any Image of Honesty doth shine or appear, and so endeavour to express their manners, that whose Vertue they admire, they endeavour also to imitate some of their Vices in Speech, Apparel in deport. But in conforming themselves to the King in gesture, manners of Speech they not only desire to imitate him, but also by flattery they insinuate themselves into the minds of great ones, and by these Arts they hunt after Riches, Honour and Preferment, because they know we have it by Nature, that we Love not only our selves, and our own concerns, but embrace our own likeness though vicious in others. Now that which we demand not Wickedly and Arrogantly,

gantly, but by Entreaty endeavour to obtain, hath a far greater force than the Threatnings of Laws, the Oſtentation of Puniſhments, or Armies of Souldiers. This reduceth a People without force into Modeſty, conciliateth to a King his Subjects good Liking, increaſeth and maintaineth the publick Tranquility, and the Wealth of every one ſeverally. Let therefore a King carefully conſider, that he is ſet on the Theatre of the World, and for a Spectacle propoſed to all, ſo as no Word or Deed of his can be concealed. The Vices of Kings can never be kept ſecret. For the Supream Light of Fate ſuffers nothing to lye hid in Obſcurity, and Fame enters into all ſecret Places, and finds out obſcure Corners. O how much doth it concern Kings to be circumſpect on all hands, ſeeing neither their Vices nor their Vertues can be concealed, nor yet without a great univerſal Change of Affairs. But if any do yet doubt, what great Importance there is in the Converſation of a Prince, for the Emendation of the publick Diſcipline, let him take but a View of the ſmall beginning of the State of *Rome*. That rude People conſiſting of Shepherds and Country Inhabitants, I ſhall not ſay worſe, naturally fierce, having got a very couragious King, and having pitched once their Tents, for ſoliciting the Peace of the Neighbouring Nations, and provoking them to fight, how much do you think of Hatred and Fear was bred in their Neighbours? When again that very ſame People had ſet over them a pious and juſt King, they were ſo ſuddenly changed, that being wholly devoted to the Worſhip of their Gods, and to Acts of Juſtice, that to wrong them their Neighbours judged it a Crime, even thoſe very Neighbours, I ſay, whoſe Lands before they had laid waſte, whoſe Cities they had burnt, and their Children and Kinſmen they had carried away into Bondage. Now if in that Barbarity of Manners, and Rudeneſs of Times, *Numa Pompilius* (who a little before was brought out of another Nation at Enmity with them, and made King) could do ſo much: what ſhall we expect, or rather, what ſhall we not expect of thoſe Princes, who being ſupported by Affinity, Vaſſals, and much Wealth left them by their Anceſtors, obtain the Government? And are born and brought up in expectation thereof. Now how much ſhould it ſtir up their Minds unto Vertue, that they hope to have the Praiſe not of one Day, as Stage-players do, the Scene being once paſt, but the good Will, Admiration, and perpetual Remembrance of their Life to all Poſterity, and know that Honours in Heaven are prepared for them? I wiſh I could expreſs in Words the Repreſentation of that Honour, which in mind I have conceived. Now that I may ſomewhat propoſe unto your View the ſame by ſome of the firſt Draughts

and

and Lineaments thereof, consider with your self, how the brasen Serpent erected by *Moses* in the Desert of *Arabia*, did heal the Wounds made by other Serpents, by a very Look of the People thereon. Imagine that out of the whole People there were some stung by Serpents, and running together for present Cure, others Astonished at the newness of the Miracle, and all Celebrating with all kind of Praise the immense and incredible Goodness of God: when they perceive that the Pain of that deadly Wound was not taken away, either by Medicaments, with the Torment of the Patient, by the Physicians Labour, and assiduous Carefulness of Friends, nor by any long space of time, but reduced unto Health in a moment. Compare now a King with that Serpent, and so compare him, that you may reckon a good King amongst the greatest Benefits of God, who alone, without any Expence of thine, and without thy Pains and Labour, doth relieve a Kingdom of all its Troubles, setleth Perturbations, and in a short space bringeth the Inveterate Ulcers of Minds unto a Cicatrice or Scar; neither is he only a Procurer of Health to those who behold him near at hand, but also to such as are a far off, and have no hope to see him, in whose Image so great a Force is presented to the Minds of his Subjects, that it doth easily perform what the Prudence of Lawyers, the Science of Philosophers, and the Experience of so many Ages, in collecting their several Arts, could never perform. Now that great Honour, Dignity, Eminency or Majesty can be told or excogitate to be in any Man, that by Speech, Converse, Sight, Fame and a tacite Species presented to the Mind, he may reduce the most Luxurious to Modesty, the Violent to Equity, and those that are Furious unto a right Mind. Can you ask of God a greater Benefit than this, so much for the Good of Mans Concerns? If I mistake not, this is the true Representation of a King, not that of a King guarded with Weapons of War, ever fearing others, or making others afraid, by his Hatred towards his People, measuring his Peoples Hatred against him. This Representation which we have gived, *Seneca* in his *Thyestes* hath expressed in very pleasant Colours, which Verse I doubt not but you know, seeing it is most elegant. Do I now seem to speak basely and contemptuously of a King, and bind him fast loaded with the Fetters of Laws within a Goal, as you did lately say? And not rather to bring him forth into Light and Assemblies of Men, and set him upon the publick Theatre of Mankind? Accompanied not with the arrogant Company of Archers and Armed Men, and Rogues cloathed in Silk, but guarded in Safety by his own Innocency, not with the Terrour of Arms, but by the Love of his People: and not only at Freedom and set aloft, but honour-

honoured, venerable, ſacred and eminent, and coming forth with the good Wiſhes and fortunate Acclamations of the People, and whitherſoever he goeth, turning the Faces, Eyes and Hearts of all towards him: What Acclamation, or what Triumph can be compared with this daily Pomp? Or if God in humane likeneſs ſhould come down into Earth, what greater Honour could be given him by Men, than that which would be given to a true King, that is to the lively Image of God? For neither can Love beſtow, nor Flattery invent a greater Honour than this. What do you think of this repreſentation of a King?

M. So ſplendid and magnificent indeed it is, that it ſeems nothing can be ſaid or imagined more magnificent. But in theſe corrupt times of ours, it is hard to find this magnanimity, unleſs careful Education make an honeſt and good Nature and Diſpoſition. For the mind being principled with good inſtructions and Acts from Infancy, and by Age and daily Practice confirmed, endeavours by Vertue to attain to true Glory, in vain it is tempted by the allurements of Luſts, or weakned by the impreſſions of Adverſity. For thus Learning doth perfect natural Parts, and good Breeding doth ſtrengthen the mind: So that it findeth occaſion of exerciſing Vertue amongſt the very Recreations of Pleaſures, and theſe things which uſually terrifie weak ones, by reaſon of difficulty, Vertue doth account them as a matter of praiſe. Seeing then there is ſo great importance in Learning for all conditions of Life, with what great Care and Solicitude ſhould Men foreſee, that the tender minds of Kings be rightly principled, even from their very Infancy. For ſeeing many are the benefits of good Kings towards their Subjects, and contrariwiſe, many Calamities proceed from wicked Princes, then nothing doth ſeem to have a greater influence upon every Rank of Men, than the carriage and converſation of Kings and others, who joyntly rule publick Affairs. For what is done well or ill by private Perſons, is for the moſt part hid from the multitude: Or by reaſon of ſuch Mens obſcure condition their example belongeth to few. But all the words and deeds of thoſe, who hold the Helm of publick Affairs, cannot be concealed, being written as it were in a publick Monument, as *Horace* ſaith, but are ſet before all Men for imitation. For they do not turn Mens affections to themſelves by Studying to pleaſe them, but by very kind Allurements of utility. And whitherſoever the inclinations of Kings do drive, they make the publick Diſcipline wheel about with them. But I am afraid that our Kings will not not be intreated to perform what you have now mentioned. For they are ſo marred by the Allurements of pleaſures, and deceived with the falſe ſhew of Honour, that I think they do almoſt that which ſome

Poets report to have befal'en the *Trojans* who were in company at Sea with *Paris*. For the true *Helena* being left in *Ægypt* with *Protheus* a Holy and true religious Man, they did contend so Pertinaciously the space of Ten Years for her likeness, that it was the end of a most pernicious War, and of the most Flourishing Kingdom in those times. For impotent Tyrants embracing that false representation of a Kingdom, when they have once obtained it by right or wrong, cannot loose it without destruction. Now if any do admonish them, that the true *Helena* for whom they imagine to fight, is elsewhere concealed, they would call him mad. *B.* I am indeed glad that you somewhat understand the Beauty of that true Daughter of *Jupiter* from this her likeness, such as it is, albeit you do not see her self. But if these Lovers of that *Helena*, to their great damage, did see the perfect Image of the true *Helena*, pourtracted with her lively Colours by some *Protegenes* or *Apelles*, I do not question but they would admire her and fall in Love with her. And if they did not command their affections to enjoy that other, they might fall into those grievous punishments, which *Persius* in his *Satyres* doth imprecate on Tyrants. O Supream Father of the Gods, be pleased thus to punish cruel Tyrants, when any execrable Lust dipt in raging Poyson doth stir up their spirits, let them see what Vertue is, and let them pine away for sorrow, because they despised her. And therefore seeing we are fallen in to make mention of Tyrants, may it please you, that straight way we proceed to speak of them? *M.* Yea, unless you think some other thing should be first spoken. *B.* I suppose we shall not deviate, if we proceed in the same Foot-steps for finding out a Tyrant, wherein we did insist in seeking out a King. *M.* I think so. For by that means we shall very easily understand what difference there is betwixt them, if set one against another they be duly considered. *B.* And first of all, that we may begin at a Tyrants name, of what Language it is uncertain. I therefore think it now necessary for us to seek therein the *Greek* or *Latin* Etymology. Now what the Ancients did call Tyranny, I think is not unknown to any who are well versed in humane literature. For Tyrants were called both by the *Greeks* and *Latins*; who had the full Power of all things in their hands, which Power was not astricted by any Bonds of Laws, nor obnoxious to the cognition of Judges. Therefore in both Languages, as you know, not only the Noble Heroes, and most Famous Men, but the chiefest of the Gods, and so *Jupiter* also is called *Tyrannus*: And that even by those who both think and speak Honourably of the Gods. *M.* I know indeed that well enough; and the rather I much admire, whence it is come to pass, that that name now for so many Ages is accounted

counted Odious, and alſo amongſt the moſt grievous reproaches. *B.* It ſeems certainly to have fallen out in this word, which happeneth to be in many others; for if you conſider the nature of Words, it hath no evil in it. And albeit ſome words have a more pleaſant ſound in the Ears of Hearers, and others a more unpleaſant, yet of themſelves they have no ſuch thing, ſo as to ſtir up the mind to Wrath, Hatred, or Hilarity, or otherwiſe to Create pleaſure or pain and trouble. If any ſuch thing befal us, that happens to fall out uſually, not from the Word, but from the conſuetude of Men, and Image thereof conceived by the Hearers. Therefore a Word which amongſt ſome Men is honeſt, amongſt others cannot be heard with ſome Preface of, *with reverence. M.* I remember that the like is befallen the names of *Nero* and *Judas*, whereof the one amongſt the *Romans*, and the other amongſt the *Jews* was accounted by great Men very Famous and honourable. But thereafter by no fault of theſe names, but of theſe two Men, it hath come to paſs, that even the moſt flagitious Men will not have theſe names to be given their Children: They being Buried under ſuch infamy. *B.* The ſame alſo is perſpicuous to have befallen the Word *Tyrant*, for it is credible, that the firſt Magiſtrates, who were thus called, were good Men; or from hence, that this name was ſometime ſo Honourable, that it was attributed to the Gods. But thoſe that came afterwards made it ſo infamous by their wicked Deeds, that all Men abhorred it as Contagious and Peſtilentious, and thought it a more light reproach to be called an Hangman than a Tyrant. *M.* Perhaps it was the ſame as befell the Kings in *Rome* after the *Tarquinii* were depoſed in the name *Dictator* after M. *Antonius* and P. *Dolabella* were Conſuls. *B.* Juſt ſo. And on the contrary, baſe and vulgar names have been made Famous by the Vertue of Men called thereby. As amongſt the *Romans*, *Camillus*, *Metellus*, *Scropha*; and amongſt the *Germans*, *Henry*, *Genſerick*, *Charles*. This you ſhall the better underſtand, if taking away the name of Tyrant, you conſider the thing, notwithſtanding that this kind of Government hath continued in its former Honour and Reſpect amongſt many Famous Nations, as the *Æſymnetæ* amongſt the *Grecians*, and the *Dictators* amongſt the *Romans*: For both were lawful Tyrants. Now Tyrants they were, being more powerful than the Laws; but lawful they were, as being choſen by conſent of the People. *M.* What am I hearing? Tyrants and yet lawful? Indeed I did expect a far other thing from you; but now you ſeem to confound the differences of all Kings and Tyrants. *B.* Indeed both Kings and Tyrants amongſt the Ancients ſeem to have been altogether one and the ſame, but I ſuppoſe in divers Ages: For I think the name of Tyrants was more Ancient;

thereafter when they became weary of the name, in their place ſucceeded Kings by a more plauſible name, and more gentle Government; and when they alſo began to degenerate, the moderation of Laws were adhibited, which might ſet limits to the boundleſs Luſts of their Government. Now Men according to the exigence of times, and their uſual way, ſeeking out New Remedies became weary of the Old way of Government, and ſought out New ways. Now our preſent purpoſe is to handle both kinds of Government, namely that wherein as well the Government of Kings as of Laws is the moſt powerful; and the worſt kind of Tyranny, wherein all things are contrary to a Kingdom, and have undertaken to compare them one with another. *M.* It is ſo. And I earneſtly expect you would fall upon that. *B.* At firſt then we had agreed, that a King was Created for maitaining humane Society, and we determined his Office and Duty, that by the preſcript of Laws he ſhould allow every Man his own. *M.* I do remember that. *B.* Firſt then, he that doth not receive a Government by the will of the People, but by force Invadeth it, or intercepteth it by fraud, how ſhall we call him? *M.* I ſuppoſe, a Tyrant. *B.* There be alſo many other differences, which I ſhall briefly run through, becauſe any Man may eaſily Collect them from *Ariſtotle*: For the Government of Kings is according to Nature, but that of Tyrants is not. A King doth Rule his Subjects, and Reign over them by their own Conſent. Tyrants Reign over them, nill they will they. A Kingdom is a principality of a Free Man among Free Men: Tyranny is a principality of a Maſter over his Slaves. For defence of a Kings ſafety the Subjects Watch and Ward, for a Tyrant Forrainers do Watch to oppreſs the Subjects. The one beareth Rule for the Subjects well-fare, the other for himſelf. *M.* What do you ſay of thoſe who have gotten into their hand the Supream Authority by Force and without the Peoples Conſent, and yet for many Years did ſo Rule, that the People were not weary of their Government? For what could be wanting in *Hiero* the *Syracuſan* King, or in *Coſmo de Medices* the *Florentine* Duke to make them juſt Kings, except the Peoples ſuffrages? *B.* Indeed we cannot exempt them out of the number of Tyrants. For it was Nobly ſpoken by a notable Hiſtorian, albeit you may indeed Rule your Countryand Friends by Violence and Force, and Correct their Faults, yet it is unſeaſonable. Then again, ſuch do ſeem to do juſt like Robbers, who cunningly dividing their ill gotten Goods, do ſeek the praiſe of Juſtice by injury, and of liberality by Robbery, yet do not obtain what they hunt for; by the odiouſneſs of one ill deed they looſe all the thanks of their Oſtentative bounty, and ſo much the leſs aſſurance of their Civil diſpoſition do they give their Subjects,

jects, and that becauſe they do not that for their Subjects good, but for their own Government, namely, that they the more ſecurely may enjoy their own Luſts and Pleaſures, and eſtabliſh a ſoveraignty over the Poſterity to come, having ſomewhat mitigated the Peoples hatred. Which when they have once done, they turn back again to their old manners. For the fruit which is to follow may eaſily be known by the ſowre thereof. For he hath the ſame ſtrength and power to revoke all things at his pleaſure, and to transfer unto himſelf the ſtrength of all Laws, even as if he would abrogate all Laws. But this kind of Tyrants had been perhaps tolerable, if without the common deſtruction of all it could have been taken away, even as we do endure ſome bodily Diſeaſes, rather than throw our life into the hazard of a doubtſome Cure. But they who bear rule, not for their Country's good, but for their own ſelf intereſts, have no regard to the publick utility, but to their own pleaſure and luſt, they place the ſtability of their Authority in the Peoples weakneſs, and think that a Kingdom is not a procuration concredited to them by God, but rather a prey put into their hands. Such are not joyned to us by any civil Bond, or Bond of humanity, but ſhould be accounted the greateſt Enemies of God and of all Men. For all the actions of Kings ſhould aim at the publick ſafety of their Subjects, and not at their own wealth. By how much Kings are raiſed above other Men, ſo much ſhould they imitate the Celeſtial Bodies, which having no good offices of ours given to them; yet do infuſe on human Affairs a vital and bountiful vertue of heat and light. Yea the very Titles wherewith we have honoured Kings (if you remember) might put them in mind of their Munificence. *M.* Me thinks I remember, namely that they ſhould uſe a Paternal indulgence towards their Subjects committed to them as towards Children; the care of a Shepherd in procuring their profit; as Generals in maintaining their ſafety, as Governours in excellency of Vertues, and as Emperours commanding thoſe things which might be uſeful, *B.* Can he then be called a Father who accounts his Subjects Slaves? or a Shepherd, who doth not feed his Flock, but devoureth them? or a Pilot who doth always ſtudy to make ſhipwrack of the goods in his Ship, and who as (they ſay) makes a Leek in the very Ship wherein he ſails? *M.* By no means. *B.* What is he then, who doth not Rule for the Peoples good, but ſtill doth all for himſelf, who doth not ſtrive with good Men in Vertue, but contendeth to exceed the moſt flagitious wretch in Vices? who leadeth his Subjects into manifeſt Snares? *M.* Indeed ſuch ſhall not by me be accounted either a General, or Emperour, or Governour. *B.* If you then ſhall ſee any uſurping the-

name

name of a King, and in no kind of Vertue excelling any of the People but inferior to many therein, not fatherly affectionate towards his Subjects, but rather oppressing them by arrogant domineering, and that thinketh the People is concredited to him for his own gain, and not for their safeguard. Will you imagine that such a Man is truely a King, albeit he goes vapouring with a great many in Guard about him, and openly be seen with gorgeous Apparel, and make a shew of Punishments? can he conciliate the People, and catch their applause by Rewards, Games, Pompous shews, and even mad underminings, and whatever is thought to be Magnificent? will you, I say, account such a Man a King? *M.* Not indeed, If I would understand my self aright, but void of all human society. *B.* Within what limits do you circumscribe human society? *M.* Within the very same limits wherein by your preceding discourse you seemed to include it, namely within the Hedg of Laws. Which whosoever trangress, be they Robbers, Thieves, or Adulterers, I see them publickly punished, and that to be accounted a just cause of their Punishment, because they transgressed the limits of human society. *B.* What say you of those, who would never once enter within these hedges? *M.* I think they should be accounted Enemies to God and Men, and reckoned amongst Wolves, or some other kind of noisome Beasts, rather than amongst Men: which whosoever doth nourish, he nourisheth them for his own destruction and others: and whosoever killeth them, doth not only good to himself, but to all others. But if I had power to make a Law, I would command (which the *Romans* were wont to do with Monsters) such kind of Men to be carried away into solitary places, or to be drowned in the depths of the Sea, a far from the sight of any Land, lest by the Contagion of their Carcasses they might infect other Men. And rewards to the killers of them to be discerned not only by the whole People, but by every particular Person; as useth to be done to those who have killed Wolves or Bears, or apprehended their Whelps. For if such a Monster should be Born, and speak with a Mans voice, and have the Face of a Man, and likeness of other Parts, I would have no fellowship with him; or if any Man devested of humanity should degenerate into such cruelty, as he would not meet with other Men but for their destruction. I think he should be called a Man no more than Satyrs, Apes, or Bears, albeit they should resemble Man in countenance, gesture and speech. *B.* Now if I mistake not, you understand what a King, and what a Tyranat the wisest Antients meant in their Writings. Will it please you then that we propose some Idea of a Tyrant also, such as we gave in speaking of a King? *M.* Yes, that I

do

do earneſtly deſire, if it be not a trouble to you. *B.* You have not forgot, I ſuppoſe, what by the Poets is ſpoken of the Furies, and by our Divines of the Nature of evil ſpirits, namely, that theſe ſpirits are Enemies of Mankind, who whilſt they are in perpetual Torments, yet do rejoyce in the Torments of Men. This is indeed the true Idea of Tyranny. But becauſe this Idea can only be diſcerned in the imagination, but not by any of the ſenſes, I ſhall ſet before you another Idea, which not only the Mind may diſcern, but the ſenſes alſo perceive, and as it were repreſented to the very Eye. Imagine you ſee a Ship toſſed by Waves in the Sea, and all the Shoars round about not only without Haven or Harbour, but alſo full of moſt cruel Enemies, and the Maſter of the Ship in conteſt with the Company, and yet to have no other hope of ſafety than in their fidelity, and the ſame not certain, as knowing well that he puts his life into the Hands of a moſt barbarous kind of Men, and void of all humanity, whom by Money he may hold truſty, and who for greater gain may be conduced to fight againſt him. Such indeed is that life which Tyrants embrace as happy. They are afraid of Enemies abroad, and of their Subjects at home, and not only of their Subjects, but of their Domeſticks, Kinsfolks, Brethren, Wives, Children and near Relations. And therefore they have always War, either a Foreign War with their Neigbours, Civil War with their Subjects, or a Domeſtick War within doors, or elſe they are ſtill in fear thereof. Neither do they expect aid any where but by a Mercenary way, they dare not hire good Men, nor can they truſt bad Men; what then in all their life can be to them pleaſant? *Dionyſius* would not let his Daughters once become Women to trim him, fearing to let the Razor come to his Throat. *Temoleon* was killed by his own Brother, *Alexander Pharæus* by his own Wife, and *Sp. Caſſias* by his own Father. He that ſtill hath ſuch Examples ſet before his Eyes, what a Torture do you imagine he carrieth about in his Breaſt? Seeing he thinks that he is the mark ſet for all Mankind to ſhoot at. Neither is he only, while awake, tormented with theſe tortures of Conſcience, but alſo is awakned out of his Sleep by terrifying ſights both of living and dead, and agitated by the Firebrands of helliſh Furies. For the ſeaſon which Nature doth grant for reſt to all Creatures, and alſo to Men for relaxation of their Cares, to him is turned into horrours and puniſhment. *M.* Forſooth you have handled theſe things very acutely, but I know not if truly alſo, but yet, if I miſtake not, they make not ſo much for our purpoſe.

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For they who have the power to chooſe what Kings they pleaſe, in them is the power to bind by Laws ſuch as they have choſen. But you know that our Kings are not choſen, but born Kings. To whom I have always thought it to be no leſs hereditary, that their will and pleaſure ſhould ſtand for Law, than the Kingdom it ſelf. Nor am I raſhly induced to be of this opinion, but convinced by ſeveral great Authors, with whom I am not aſhamed to be miſtaken, (if at all I be in any miſtake or errour.) For not to make mention of others, Lawyers do affirm, that by the Royal Law which is made for the Government of Kings, all the Peoples Power is ſo tranſmitted into them, that their will and pleaſure ſhould be accounted for Laws. And indeed from this Law did thoſe threatnings of a certain Emperour ariſe, that he would quite take away from Lawyers all their ſciences, wherein they ſo much boaſt, by one Edict. *B.* You do very well, that whilſt you cite a moſt wicked Author of one of the greateſt deeds, thought good to ſuppreſs his name. For that was *C. Caligula*, who wiſhed but one Neck for all the people of *Rome.* Now in that Emperour there was nothing of a man, far leſs of a King, beſide his ſhape, you are not then ignorant how much Authority may be due to him. But as for the Royal Law, what it is, when, by whom, and in what words it was made the very Lawyers make no mention. For that power was never in any of the Roman Emperours, ſeeing from them appeals were made to the people. But that ordinance, whereby *L. Flaccus* having oppreſſed the Liberty of the People of *Rome*, eſtabliſhed by the ſilence of other Laws; the Tyranny of *L. Sylla*, no man did ever hold for a Law. For of that ordinance ſuch was the ſtrength, that whatever *L. Sylla* had done, ſhould be ratified. Which Law never any free people was ſo infatuate, as willingly to permit to be impoſed on them. Or if any ſuch were, he were indeed worthy to ſerve perpetually Tyrants, and be puniſhed for his folly. But if any ſuch Law have been, let us think it was an example propoſed to us for caution, but not for imitation.

M. Indeed you admoniſh well. But that admonition belongeth to them in whoſe power it is to create ſuch Kings as moſt pleaſe them, but to us it doth not at all belong, who do not by ſuffrages elect the beſt Kings, but accept of thoſe that by chance are given us. That alſo of a certain Lawyer ſeems properly to quadrate with us, who have given to our Kings *Anceſtors* that right and authority over us and our poſterity, that they and their poſterity

rity ſhould perpetually hold their Empire and Authority over us. I wiſh then you had admoniſhed them (I mean our *Anceſtors*) who once had it in their own power entirely to admit ſuch Kings as they pleaſed. But now that Counſel of yours too late ſerves only for this, not to amend the faults that are not in our power, but deplore our *Anceſtors* folly, and acknowledge the miſery of our condition. For what can be left to thoſe that are made ſlaves, but to be puniſhed for other mens folly? And that our puniſhment may be made more light, let us aſſwage them by patience: let us not provoke their wrath, by tumultuating importunely, whoſe dominion over us we cannot caſt off, nor diminiſh their power, nor flee from their force or weakneſs. Now that Royal Law, to which you are ſo much an Adverſary, was not made in favour of Tyrants, as you would have it ſeem to be, becauſe it was approved by *Juſtinian* a very juſt Prince. With whom ſo plain flattery would not have had place. For with a fooliſh Prince that of the Poet would prevail *whom doth falſe honour help, or lying infamy terrify, but a lewd man and a lyar?* *B.* Indeed *Juſtinian*, as Hiſtory reports, was a great mighty Man albeit ſome do report him to have been cruelly ingrate to *Belliſarius*. But let him be ſuch as you judge he was, yet you may remember, that it is recorded by ſome almoſt of that ſame age with him, that *Tribonius*, a chief Man amongſt the compilers of theſe Laws, was a very wicked Man, and ſo might eaſily be induced to gratify alſo a very bad Prince. But even good Princes do not hate this kind of flattery. For *Even thoſe who will not kill any man, do yet deſire to have it in their power, and there is nothing which he dare not believe of himſelf, ſeeing his power equal to that of the Gods is commended.* But let us return to our own Princes: to whom you ſay the Kingdom doth come by inheritance and not by ſuffrages. Now of our own only I ſpeak, for if I ſhall digreſs to ſpeak of Foreign Princes, I fear leſt our diſcourſe become more prolixe than we intended. *M.* I think you ſhould do ſo. For Foreign Affairs do not much belong to our diſpute in hand. *B.* That I may therefore begin at the firſt Principles. This is ſufficiently agreed upon, that our Princes were choſen for their Vertue, who ſhould govern others. *M.* So do the Writers of our Affairs record. *B.* Nor is this leſs known, that many who have Reigned cruelly and wickedly have been called to account by their Subjects: ſome adjudged to perpetual Impriſonment, others puniſhed partly by exile, and partly by death, againſt whoſe killers no Inquiſition was ever

made, even when their Sons or Kinſmen were aſſumed into their ſtead. But who ever had killed good Kings, were more ſeverely puniſhed, ſo as no where elſe was murther more ſeverely revenged. And becauſe it would be tedious to rehearſe every one, I ſhall produce ſome few of theſe laſt Kings, whoſe memory is moſt recent. The nobility did ſo grievouſly puniſh the Murther of *James* the Firſt, (having left as heir his Son of ſix years of age) that by a new and exquiſit kind of puniſhment they put to death ſeveral Perſons of very Eminent Families, and Peers of the Land, both for wealth and vaſſalage eminent: On the contrary, who did condole the death of *James* the Third, a Man flagitious and cruel? far leſs revenge it? But in the death of *James* the Fourth his Son, the ſuſpition of the Crime was puniſhed with death neither were our Anceſtors piouſly inclined towards good Kings, but alſo gentle and merciful toward wicked Kings. For when one of King *Culen's* Enemies had killed him in his journey, whilſt he is coming to give an account of his Adminiſtration, he was ſeverely puniſhed by a ſentence of the Eſtates of Parliament. And likewiſe was puniſhed as an Enemy, he who had killed *Evenus* in Priſon, who had been adjudged to perpetual bonds. And the violent death or parricide of him they puniſhed, whoſe wicked and vicious life all men had hated. *M.* I do not ſo much inquire at preſent what ſome time hath been done, as by what right Kings Reign amongſt us. *B.* That we may therefore return thereunto, as in our firſt Kings until *Kenneth* the Third, who firſt ſetled the Kingdom in his own Family, it is very clear what was the peoples power in creating their Kings, and taking order with them, even ſo it is neceſſary we know, that he either did that againſt the peoples will, or by perſwaſion obtained it. *M.* That cannot be denied. *B.* Moreover, If by force he compelled the people to obey him, then how ſoon the people began to have confidence in their own ſtrength, they might have caſt off that violent yoke of Government impoſed upon them: Seeing all Laws received by Kings and People do pronounce, and nature it ſelf doth call for it, that whatever is done by force and violence, may be undone by the like violence. *M.* What if the people being by fraud circumvented, or by fear forced did ſurrender themſelves into that Slavery: what for excuſe can be pretended, but that they perpetually continue in that caſe, into which it was once agreed they were to be in? *B.* If you debate with me from that agreement, what excuſe there is for undoing the ſame. I ſhall on the other hand lay down ſome reaſons why pactions and agreements

greements may be diſſolved. And firſt of all, ſuch as are made through force or fear, in all Common-wealths, concerning theſe there is a ſure Law, drawn from Natures ſpring. Laws allow reſtitution to be fully made to ſuch as are by fraud circumvented, and think that it ſhould be kept for Pupils, and ſuch other Perſons, who by juſt Law they would have to be defended. What Aſſembly therefore of Men can require more juſtly to have reſtitution, then a whole people? to whom the wrong is done, which indeed is not done againſt one part of the Common-wealth, but floweth far abroad into all the Members of that politick Body. *M.* I know this Law to be made uſe of in the caſes of private Perſons, nor is it unjuſt. But there is no neceſſity we ſhould debate herein, ſeeing it is far more credible (which is recorded by Hiſtorians) that that right was by the peoples will granted to Kings. *B.* It is alſo credible that ſo great a matter was not obtained without ſome great cauſe. *M.* I do eaſily aſſent thereto. *B.* What do you think was the chief cauſe thereof? *M.* What other, except that which is recorded? wearieſomneſs of ambition, Tumults, Murthers, inteſtine Wars, often with the utter deſtruction of the one party, and always with very great damage of both. For ſuch as did obtain the Government, endeavoured to cut off their Brethren, and almoſt all their near Kinſmen, that they might leave the Government the more peacable to their Children, even as we hear is done amongſt the *Turks*, and as we ſee amongſt the chief of the Clanns in our *Iſlands*, and in *Ireland*. *B.* To which of the two do you think was that contention moſt pernicious, to the People or to the Princes? *M.* Certainly to the Kings, ſeeing the greateſt part of the people ſecuring themſelves doth uſually ſtand Spectators of Princes conteſts, and yield always as a prey to the Victors. *B.* It ſeems then that Princes rather for themſelves, than for the good of the people deſired to eſtabliſh the Kingdom in their own Family. *M.* That is very probable. *B.* Now that they might obtain that which did ſo much concern the perpetual dignity, wealth and ſafety of their Family, it is probable, that they did diſpenſe or remit to one another ſomewhat of their right: and that they might the more eaſily obtain the peoples good will, liking and conſent, they on their part gave them ſome eaſe. *M.* I believe that. *B.* You will certainly confeſs it incredible, that for ſo great a benefit beſtowed on their Kings, they ſhould endure to be in a worſe caſe than formerly they were in. *M.* It is altogether incredible. *B.* Neither would Kings have de-

fired it with ſo great Ambition, if they had known it would prove hurtful to their Children, and unprofitable to the people. *M.* Not at all. *B.* Imagine then that ſome one in Parliament of the free people did freely ask the King, what if to any King ſhould ſucceed a Son that is a fool, or mad? Will you ſet ſuch over us to Rule us, who cannot rule or govern themſelves? *M.* I think there was no need to make uſe of that exception, ſeeing by the Laws it is provided againſt ſuch a caſe. *B.* Well ſaid indeed. Let us then ſee, if Kings had obtained from the people a free power over the Laws, whether that had been unprofitable, eſpecially to thoſe who deſired to foreſee the good of their own Family in time coming. *M.* Why ſhall we think that that Power would be unprofitable? *B.* Becauſe nothing doth ſo much contribute for the continuance of a Government, as that temperament of Government, ſeeing it is both honourable for Kings, and moderate, and ſafe for the people. The mind of Man hath ſomewhat ſublime and generous imbred therein by nature, that it will obey none, unleſs he govern profitably: Nor is there any thing more prevalent for maintaining humane ſociety, than the mutual exchange of benefits, and therefore *Theopompus* ſeems to have wiſely anſwered his Wife upbraiding him that by adding the *Ephory* he had diminiſhed the Power of his Authority, and had left the Kingdom to his Sons leſs than he had gotten it. It is, ſaith he, ſo much the more firm and ſure. *M.* What you relate of continuance, I perceive is moſt true. For I think the Kingdoms of the *Scots* and *Danes* are the moſt Ancient of all that are in *Europe*, nor do they ſeem by any other means to have attained that antiquity, than by the moderation of the Supream Authority, whilſt in the mean time the Kingdoms of the *Frenches*, *Engliſhes* and *Spaniards* have paſt ſo often out of one Family into another. But I do not know if our Kings have been ſo wiſe as *Theopompus*. *B.* As they have not been ſo prudent, do you imagine that the people were ſo fooliſh, as to neglect an occaſion ſo opportune put into their hand? or that they were ſo ſtruck with fear, or ſeduced by flatteries, as to give themſelves over into ſlavery willingly? *M.* Perhaps it was not. But if the people (which indeed might be) were ſo blind, that they did not ſee what might concern their own good, or being careleſs would not ſee what might be for their benefit, ſo as to contemn it, ſhould they not then be juſtly puniſhed for their folly? *B.* It is not probable, that any ſuch thing was done, ſeeing we may ſee the contrary to

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be obſerved even to our days. For beſides that wicked Kings, as often as they intended Tyranny over their Subjects, were always reſtrained, ſome Veſtiges of the Ancient Cuſtoms do yet continue in ſome Ancient Families. For the Old Scots even to our very days do chooſe their Heads of Clans, and having choſen them, do give them a Council of Elders, to which Council whoſoever gives not Obedience, is deprived of all Honour and Dignity. What therefore is with very great care obſerved in the parts, would they be negligent of for the ſecurity and ſafety of all? And would they willingly redact themſelves into Bondage to him, who was to poſſeſs a lawful Kingdom inſtead of ſome benefit? and would they freely give over their Liberty acquired by vertue, defended by arms, not interrupted for ſo many Ages, to one not expecting it, without force, without War: For the calamity of *John Baliol* doth ſhew that that power was never granted to our Kings, beſides the puniſhments ſo often taken for their Male-adminiſtration. Who about two hundred and ſixty years ago was by the Nobility rejected, becauſe he had ſubjected himſelf and his Kingdom to the authority of *Edward* King of *England*, and *Robert* the firſt was ſubſtitute in his ſtead. The ſame doth alſo ſhew that perpetual Cuſtom continued from the beginning of our Government.

M. What cuſtom do you ſpeak of? *B.* When our Kings are publickly inaugurated, they ſolemnly promiſe to all the people, that they will obſerve the Laws, Rites and old Statutes of their predeceſſors and uſe the ſame power which they have received from them, that whole order of ceremonies doth ſhew, and the firſt entry of our Kings into every City, from all which it may be eaſily underſtood, what kind of power they did receive from our predeceſſors, to wit, none other than that they ſwear to maintain the Laws being choſen by ſuffrages. This condition of reigning did God propoſe to *David*, and his poſterity, and promiſeth they ſhould reign ſo long, as they ſhould obey the Laws he had given them, thoſe things indeed they do, as is probable that our Kings received from our Anceſtors a power not immenſe, but within certain limits bounded and limited. And further there was the confirmation of a long time, and the uſurpation of a perpetual right by the people, never reprehended by a publick decree. *M.* But I fear it cannot be eaſily obtained of Kings as being perſwaded by that probability to condeſcend to theſe Laws however ſworn unto, or uſurped by the people. *B.* I alſo believe, it is no leſs hard to perſwade the people to paſs from

from the right received from their Anceſtors, approved by the uſe of ſo many ages, and practiſed by one continual tenour. I do not think it needful to proceed by conjectures what the people is to do, ſince I ſee what they have done already. But if by the obſtinate pertinacy of both the buſineſs they come to Arms, he that prevaileth will give what Law and right he pleaſeth to the vanquiſhed: but this will no longer continue than he who is vanquiſhed, having again gathered together his forces, ſhall take up Arms again. In all which contentions men uſually ſtill fight with very great damage of the people, but with the utter overthrow of Kings. For from this Spring do flow all the deſtructions of all Kingdoms. *M.* It muſt needs be ſo. *B.* I have perhaps gone back further than was needful, to the end you might clearly underſtand what kind of Government there was amongſt us of old. For if I had reaſoned with you according to the rigour of the Law, I might have gained my point in a far more compendious way. *M.* Albeit you have almoſt ſatisfied me already, yet I ſhall willingly hear what that is. *B.* I would then have you firſt of all to anſwer me this queſtion. Do you not approve the definition of Law ſet down by Lawyers, who ſay that Law is, that which the people knew when demanded by him to whom the Prerogative of demanding belongeth. *M.* Indeed I do approve it. *B.* We have agreed, that the faults of Laws being found out, they may be amended or abrogated by the Law-givers. *M.* We did ſo. *B.* I ſuppoſe you perceive now, that ſuch as are born Kings are by the Laws and ſuffrages of the people created, no leſs than thoſe whom we ſaid were elected in the beginning, and that in receiving of Laws there will not be Remedies wanting in the people, who are the Lawgivers, not only againſt force and fraud, but alſo againſt negligence. *M.* I perceive that clearly. *B.* Only here is the difference, that the Law concerning our Kings was made ſeveral ages before, and when any doth enter into the Kingdom, there uſeth to be no new Law made, but the old Law is approved, and ratified. But amongſt thoſe who have their meeting of Eſtates at the Election of every King, the Law uſeth to be made, the King created and approved, and ſo to enter into his Government. *M.* It is ſo. *B.* Now if you pleaſe, let us briefly recapitulate what we are at accord in from the very beginning. So that if ought be raſhly approved, it may be retracted. *M.* I am content. *B.* Firſt of all then, it ſeems that a King is created for the Peoples ſake,

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and that nothing more excellent is given us of God than a good King, and more Peſtilentious than a wicked King. *M.* Very right. *B.* We have alſo ſaid that a wicked King is called a Tyrant. *M.* We have ſaid ſo. *B.* And becauſe there is not ſuch plenty of good men, ſo as to chooſe thoſe who may prove good Kings, nor ſo great a happineſs of Birth, as that good Luck may offer us thoſe that are good: if we have not ſuch as we would wiſh, yet we have ſuch as either conſent hath approved, or chance hath offered. Now the hazard that occureth either in chooſing new Kings, or in approving ſuch as are given us by Birth, was the cauſe that we deſired Laws, which might modify the Government of Kings. Now theſe Laws ſhould be nothing elſe but the expreſs Image (as far as may be) of a good Prince. *M.* We are at accord in that alſo. *B.* It now remaineth, as I ſuppoſe, for us to ſpeak of the Puniſhment of Tyrants. *M.* That only ſeems to remain unſpoken of. *B.* If then a King break all the Bonds of Laws, and plainly behave himſelf as a publick Enemy, what think you ſhould be done in this caſe? *M.* Indeed I am at a ſtand here. For albeit the reaſons you have given ſeem to convince me, that we ought to have no ſociety with that King, yet ſo great is the ſtrength of a conſtant cuſtom that in my opinion it hath the ſtrength of a Law. Which cuſtom doth ſo cloſely cleave to men in their minds, that if at any time it hath brought in an errour, better it is to tolerate it, than to marr the Conſtitution of the whole Body, whilſt we endeavour to Cure a Diſeaſe that is but ſmall by cuſtom. For ſuch is the Nature of ſome diſeaſes, that better it is to endure the Pain they bring, than to call for doubtſom remedies, in the applying whereof, albeit the Cure may be wrought, yet they bring ſuch ſharp Pains in their Cure, as that the Cure of the Diſeaſe is more pernicious than the Diſeaſe it ſelf. Next, that which troubles me more is, I ſee that Government which you call Tyranny, confirmed by the Word of God, and what you abhorr as the utter overthrow of Laws, God doth call the Law of the Kingdom; the Authority of that paſſage of Scripture doth move me more than all the Arguments of Philoſophers. If you do not explain this to me, the comments of Men will not be of ſo great account with me, but that I may inſtantly fall away to the Adverſaries ſide. *B.* You are, as I perceive, in the common errour, and that very grievous, who do endeavour to confirm Tyranny by Tyranny. For how great the Tyranny of cuſtom is in the minds of men,

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wherein it hath taken deepeſt root, and too often we have found it in this our age. *Herodotus* an Ancient writer doth give us warning by an old example, but I need not old examples. Be well adviſed. Conſider with your ſelf how many things there be of great moment, wherein you following the dictates of reaſon have fallen from a cuſtom inveterat ſo many ages paſt, ſo that now you might have learned by Domeſtick experiments, that there is no cuſtom more full of dangers than that which in a publick way they command us to follow. I bid you look well to it round about, how many ruins, and how great ſlaughters will you ſee therein? but if it be more clear (as we ſay) then the very light, I need not tarry longer in proving or Illuſtrating a thing ſo perſpicuous. Now as for that paſſage of Scripture, which from the Hiſtory of the Kings you rather ſignify than explain, beware, I pray you, you think that the things which God doth abhor in the life of Tyrants, are by him allowed to Kings. Now leſt this be, I bid you firſt conſider what that people ſought of the Lord: then what cauſes of a new petition they had, laſtly, what the Lord did anſwer them. Firſt, they ask a King, but what a King? a Lawful King? ſuch a one they had. For *Samuel* was given them by the Lord, whoſe Prerogative it was to ſet a King over them. He had for many years judged them Lawfully according to prefcript of God's Law: but whilſt in his old Age his Sons did judge, they did many things wickedly, and judged contrary to the Laws. I ſee no reaſon why they ſhould ask the change, or rather Amendment of the Government, or expect the ſame from the Lord, who not long before had quite rooted out the whole Family of *Heli*, almoſt for the like cauſe. What do they ask? A King, ſuch as their Neighbouring Nations had, who at home might be a judge to them, and abroad a leader of their Armies. Now in effect ſuch were Tyrants, for as the People of *Aſia* are of a more ſervile diſpoſition than thoſe of *Europe*, ſo did they the more eaſily obey the commands of Tyrants. There is no mention made for ought I know, by an Hiſtorian of any Lawful King in *Aſia*. Moreover, it doth eaſily appear that a Tyrant, and not a King is there deſcribed, in regard the Lord in Deuteronomy had prefcribed to them a form not only different from this in that place cited by you, but alſo plainly contrary thereto, according to which form *Samuel* and the other judges had judged ſo many years, which whilſt they did reject, the Lord complains, that he was by them rejected. *M.* But the Lord doth not call him Tyrant,

rant, but ever King. *B.* He calls him indeed King: for it is peculiar to the Lord, to use the common Speech of the People, as often as he speaketh to a people. And therefore he maketh use of that word with the Vulgar People: but lest an Ambiguous use thereof might deceive, he doth Eloquently expound what the use of that word was amongst Neighbouring Nations. *M.* As that may be true, yet that of the Apostle *Paul* doth urge us more narrowly, who commands us to pray for the safety of Princes: he is so far from permitting us to revile Government, much less to dethrone such as are invested therewith, or to kill them being thrown down. But what Princes doth he recommend to our Prayers? the most cruel that ever were, *Tiberius*, *Caligula*, *Claudius*, *Nero*. For *Pauls* Epistles were almost contemporary with them. *B.* That you make so much account of the Authority in *Paul*, so as one Sentence of his hath more weight with you than the writings of all Philosophers and Lawyers, I think you do well: but see that you consider well his judgment, or meaning: for you must not examin the words only, but in what time, to whom, and why he wrote. First then let us see what *Paul* did write. For he writeth to *Titus*. Chap. 3. Put them in mind to be Subject to Principalities and powers, and to be ready to every good work. I suppose, you see what end of obedience and subjection he appoints. He likewise to Timothy Chap. 2. Doth write, that we should pray for all men, even for Kings, and other Magistrates, that saith he, we may live a peaceable life in all Godliness and honesty. And here you see what end of praying he appoints: namely not for the Kings safety, but the Churches Tranquillity, from which it will be no difficult thing to conceive also the form of Prayer. Now in his Epistle to the *Romans*, he doth define a King near to a Logick subtilty, for saith he, he is a Minister to whom the sword is given by God, for punishing the wicked, and for cherishing and relieving the good. For saith *Chrisostome*, these things are not by *Paul* written of a Tyrant, but of a true and Lawful Magistrate, who is the Vice-gerent of the true God on Earth, whom whosoever resisteth, doth certainly resist the ordinance of God. Now albeit we ought to pray for wicked Princes, we should not thence conclude, that their vices should not be punished: nor will it more follow that we should not punish the rapines of *Robbers*, for whom we are also commanded to Pray. And if we should obey a good Prince, it will not therefore follow that we should not resist a wicked Prince. But if you consider the

reason which did move *Paul* to write these things, look that the place or Argument make not much against you. For he wrote this to chastise the rashness of some, who did deny the Authority of Magistrates to be necessary for *Christians.* For since the power of Magistrats is ordained against wicked men, that we may all live rightously; and an example of Divine Justice might remain amongst men, they affirmed that there was no use thereof amongst men, who abhor so much the contagion of vices, as that they are a Law to themselves. *Paul* doth not therefore speak of those who bear Rule as Magistrats, but of Magistracy it self, that is, of the function and office of those who rule: nor yet of one or other kind of Magistracy, but of every form of a Lawful Magistracy. Nor doth he debate with those who think that wicked Magistrates should be restrained, but with those men who deny all Authority of Magistrates, who absurdly interpreting *Christian* liberty, did affirm it to be an indignity for those that were made free by the Son of God, and ruled by the Spirit of God, to be under the power of any man. That *Paul* might refute their errour, he sheweth, that Magistracy is a thing not only good, but also sacred, namely an ordinance of God, and for that end instituted, that the assemblies and incorporations of men might be so continued, that they might acknowledge Gods benefits towards them, and might forbear to wrong one another. God commanded them to be keepers of his Laws who were constituted in dignity. Now if we confess Laws to be good (as indeed they are) and the keepers thereof worthy of Honour, we will be forced to confess that the office of the keepers is a good and profitable thing. But Magistracy is terrible, but to whom? to the good, or bad? to the good it is not a terrour: it being to them a defence from injury: but to wicked men it is a terrour: it is not so to you, who are ruled by the Spirit of God. But you will say to me, what need have I then to be Subject to Magistracy, if I be the Lords Freeman? yea, that you may approve your self to be the Lords Freeman, obey his Laws: for the Spirit of the Lord, by whom you boast to be led and governed, is both the Law-giver, and approver of Magistrates, and also the Author of obedience to Magistrates. We therefore in this will easily agree together, that there is need of Magistracy even in the best Common-wealths, and that we should every way honour the same. But if any man think otherwise, we account him mad, infamous and worthy of all Punishment. For he doth plainly contravene the will of God revealed

revealed to us in the Scriptures. But as for *Caligula*, *Nero*, *Domitian*, and such like Tyrants, why they should not be punished as breakers of divine and humane Law, you have nothing here from *Paul*, who treats of the power of Magistrates, but not of the wicked Ministers of that power, nor will they be at all Magistrates, if you examine that kind of Tyrants according to *Pauls* rule. But if any will debate that wicked Princes are also ordained by God, look that this his discourse be not captious. For (as they say in Proverb) God may put a hard wedge to cleave a hard knot, so doth he set up a wicked man for punishing of wicked men; but no man in his right wits dare affirm, that God is therefore the Author of evil, or wickedness, even as no man is Ignorant that he is the Author of punishing wicked men. A good Magistrates also for the most part chooseth a wicked man to be an hangman for punishing guilty Persons. And albeit indeed that a Magistrate doth assume such an hangman for that Office, yet no impunity is granted him of all his misdeeds. Nor will the Magistrate have him to be so above the Laws, as that he cannot be questioned thereby. I will not stay longer upon this similitude, lest Court flatterers cry out that I speak basely of the supream Magistrate. But however they exclaim, certainly this they cannot deny, that the hangmans function is a part of the publick Office, and perhaps of the Royal Office, or at least by the Testimony of very Kings; who complain that their Majesty and Person is wronged, as oft as any of their publick Ministers is wronged, or violence done to them: Now the punishment of wicked Malefactors, and whatever else of that kind, doth belong to the Kings office. What say you of Majors or Provosts in Towns? what of Generals of Armies? what of Baillies? What of Sherifs? doth not *Paul* command us to be subject to them? doth he hold them for private persons? Now an account useth to be taken for male-administration of all, not only of Inferiour Magistrates, but also of such as are equal to Kings. I would therefore have them, who from *Pauls* words do dream that so great a power is given to Kings, to shew me from him, that Kings only are here to be understood by the name of power, and therefore they only are to be exempted from the Punishment of Laws: or if, when we say powers, other Magistrates be also understood by the same Author, who are ordained by God for the same use: I would have them also to shew me, where all Magistrates are loosed from the Laws, and pronounced free from the fear of Punish-

ment: or if this immunity be granted to Kings only, but denyed to others who are set in Authority. *M.* But *Paul* will have all to be subject to the higher powers. *B.* He commandeth so indeed, but by this name of Power he must needs comprehend other Magistrates, unless perhaps we imagin that *Paul* doth think no Power at all to be in those Common-wealths, which have not Kingly Government, but plainly an Anarchy therein. *M.* I do not believe that, nor is it probable: and the rather I am of this opinion, because the current of all the most learned Interpreters on the place make for you: who think that *Pauls* dispute there was against those that affirmed that no Laws and Magistrates did at all belong to them. *B.* What say you to that which I lately spoke. Do you think, that those Tyrants before mentioned of all men the most cruel, are meant by the Apostle?

M. Yes, but what produce you against me to hinder me from the belief thereof? especially seing *Jeremy* doth earnestly advise the *Jews*, and that by command of God, to obey the King of *Assyria*, and by no means to reject his autority, and thence they infer by the like reason, that obedience should be given to other Tyrants also how cruel soever. *B.* That I may answer first to what you last spoke you must take notice, that the Prophet doth not command the *Jews* to obey all Tyrants, but the King of *Assyria* alone: Now if you wou'd conclude the Form of a Law from that which is commanded to be done to one single Person, first you are not ignorant (for Logick hath taught you that) what a great absurdity you will make, next you will be in danger to be assaulted by the oppolers of Tyranny with the like weapons; for you must either shew what singular thing there is in that matter, or propose it to be imitated by all every where, or if you cannot do this, you must acknowledge, that whatever is enjoyned concerning any one Person by any special command of God, it doth alike belong to all. If you shall once admit this (which you must needs do) it will be instantly objected, that *Ahab* was killed by Gods command, and a reward was also promised and performed to him that should kill him. Whenever therefore you betake your self to that refuge, you must obey all Tyrants: because God by his Prophet did command his People to obey one Tyrant. It will be instantly replyed, that all Tyrants ought also to be killed, because *Ahab* at the command of God was killed by the Captain of his host. Therefore I advise you to provide a more firm defence from Scripture for Tyrants, or then laying the same aside at present you may have your recourse to the Philoso-

phers,

phers School. *M.* I shall indeed think upon it. But in the mean time let us return from whence we have digressed. What do you bring from Scripture, why Tyrants may be lawfully killed. *B.* First of all I proffer this, that seing it is expresly commanded to cut off wickedness and wicked Men, without any exception of rank or degree, and yet in no place of sacred Scripture are Tyrants more spared than private Persons. Next, that the definition of Powers delivered by *Paul* doth not wholly belong to Tyrants, because they accommodate not the strength of their Authority for the benefit of the People, but for fulfilling their own Lusts. Further we should diligently consider how much Power *Paul* doth grant to Bishops, whose Function he doth highly and truly praise, as being some way like unto Kings, as far as the nature of both their Functions can admit. For Bishops are Physitians of Internal Diseases, as Kings are Physitians of external Distempers, and yet he would neither of them to be free from or not liable to the Jurisdiction of the other. And even as Bishops are subject to Kings in the Exercise of their Civil Government, so ought Kings obey the Spiritual admonitions of Bishops. Now albeit the amplitude and dignity of Bishops be so great, yet no Law divine nor humane doth exempt them from the punishment of crimes. And to pass by others. The very Pope who is accounted the Bishop of Bishops, who so exalts himself above all Kings, that he should be accounted a certain God amongst them, yet is he not exempted from the Punishment of Laws, no not by his own Canonists, a kind of men very devoted to him. For seing they would think it absurd that God (for they do not hesitate to call him thus) should be obnoxious to Mens censure, and think it unjust that the greatest crimes and most filthy abominations should pass unpunished in any, and yet they have found out a way whereby crimes may be punished, and the Pope accounted sacred and inviolable. For the Priviledge of the Pope is one thing, and of that Man who is Pope is another, say they and whilst they exempt the Pope (whom they deny can err) from the cognition of the Laws, yet do they confess him to be a Man obnoxious to vices and punishment of vices; nor have the more subtilly than severely declared their Judgment herein. It would be tedious to rehearse, what Popes (to speak after their usual way) what Men personating Popes, who not only alive were forced to renounce their Popedom, but being dead were pulled out of their Graves, and thrown into *Tibar*. But to omit old Histories. The recent memory of Pope *Paul* the *IV.* is fresh in our mind, for his own *Rome* did witness

nesse a publick hatred against him by a new kind of Decree. For they vented their Fury (he being by death taken away) against his nearest Kinsfolk, his Statues and painted Images or Pictures. Nor should this Interpretation seem more subtile, whereby we separate the Power, from the Person in Power, than Philosophy doth acknowledge, and the antient Interpreters do approve, nor is the rude multitude and Strangers to subtile disputing ignorant thereof; for the meerest Tradesmen take it for no blot upon their Trade, if a Smith or Baker be hanged for robbery, but are rather glad that their society is purged of such Villains. But if there be any of another mind, I think it is to be feared, that he seems to be rather grieved at those Mens Punishment with whom he is associate in their Villany, than for the Infamy of their Society. I am of the opinion, if Kings would abandon the Councils of wicked Men and Flatterers, and measure their own Greatness rather by duties of vertue, than by the impunity of evil deeds, they would not be grieved for the Punishment of Tyrants, nor think that Royal Majesty is lessened by whatsoever destruction of Tyrants, but rather be glad that it is purged from a most filthy blot of wickedness; especially seeing they use to be highly offended with robbers, and that very justly, if any of them in their malefices pretend the Kings Name. *M.* Forsooth, they have just Cause. But laying these things aside, I would have you go on to the other head you propосed. *B.* What heads do you mean? *M.* Namely in what time, and to whom *Paul* wrote those things, for I desire to know what the knowledg thereof doth make for the argument in hand. *B.* I shall herein obey you also. And first I shall speak of the time, *Paul* wrote these things in the very Infancy of the Church, in which time it was not only necessary to be blameless, but none was to give occasion to such as sought occasion of reproaching, and unjust causes of staining the Professors of Christianity: Next he wrote to Men of several Nations, and so gathered together into one society out of the whole body of the *Roman* Empire, amongst whom there were but few very rich, yea almost none, who either had ruled, or could rule, or were in any great account amongst their fellow Citizens, they were not so many in number, and these almost but strangers, and for the most part but lately freed of bondage, and others but Tradesmen and Servants. Amongst them there were many who did further pretend Christian Liberty, than the simplicity of the Gospel could suffer. Now this company of People out of the promiscuous Multitude, which did won their Living, though meanly, by hard labour, was not to be so careful of the state of the Common-

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wealth, of the Majesty of the Empire, and of the conversation and duty of Kings, as of the publick tranquility, and their domestick Affairs, nor could they justly claim any more, than to lye lurking under the shadow of whatever Government they were under. If that People had attempted to lay hold upon any Part of Government they should have been accounted not only foolish, but mad. Nor should they come out of their lurking holes to breed trouble to those that did hold the helm of publick affairs in hand. Immature Licentiousness was also to be repressed, an unfit Interpreter of Christian Liberty. What then doth *Paul* write? doubtless no new precept but only these usual precepts, namely, that Subjects should obey their Rulers, Servants their Masters and Wives their Husbands, nor should we think the Lords yoke, how light soever, doth liberate us of the bonds of our duty, but with a more attentive mind than before to be bound thereunto, so that we should omit nothing through all the degrees of duties in our relations, that might any wise make for acquiring the favour and good Will of Men. And so it should come to pass, that the Name of God should be well spoken of among the *Gentiles* because of us, and the Glory of the Gospel more largely propagated. For performing of these things, there was need of publick Peace, the keepers whereof were Princes and Magistrates, albeit wicked. May it please you, that I set before you a manifest representation hereof? Imagin that one of our Doctors doth write to the Christians, that live under the *Turks*, to men, I say, of mean Fortune, sore dejected in mind, weak and few in Number, and exposed to the injuries of all and every one. What else, I ask you, would he advise them, then what *Paul* did advise the Church that then was at *Rome*, or what *Jeremy* advised the exiles in *Assyria*? Now this is a most sure argument that *Paul* had a regard to those mens condition to whom he did write, and not to all others, because he diligently sets home the mutual duties of Husbands toward their Wives, of Wives towards their Husbands, of Parents towards their Children, and of Children towards their Parents, of Servants towards their Masters and of Masters towards their Servants. And albeit he writes what the duty of Magistrates is, yet he doth not give them any particular compellation, (as he had done in the preceeding relations.) For which cause we shall judge that he gave no other precepts for Kings and others in Authority: especially seeing their lust was to be much more restrained, than that of private persons? What other cause may we imagin, than that at that time there were no Kings or Magistrates in the Church to whom

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he might write? Imagin that *Paul* doth now live in our days, wherein not only the People, but Princes also Profess Christianity. At the same time, let there be some Prince, who doth conceive that not only should human Laws but also divine Laws be subject to his lust and pleasure, and who will have not only his decrees, but also his very nods to be accounted for Laws, like that man in the Gospel, who neither did fear God, nor reverence man, who distributs the Church revenues amongst villains and rascals, if I may so say; and doth mock the sincere Worshipers of God, and accounts them but Fools and mad Men, or Fanaticks: what would *Paul* write of such to the Church? If he were like himself, he would certainly deny that he should be accounted a Magistrate. He would interdict all Christians to have any communion with him, either in dyet, Speech, or converse; and leave him to the People to be punished by the Laws, and would think they did nothing but their duty, if they should account him not to be their King, with whom they were to have no Fellowship by the Law of God. But there will not be wanting some Court-slaves, or Sycophants, who, finding no honest refuge, become so impudent, as to say, that God being angry against a people doth set *Tyrants* over them: whom as hangmen he appoints for punishing them. Which to be true I do confess; yet it is as true, that God many times doth stir up from amongst the lowest of the people some very mean, and obscure men to revenge Tyranical Pride and weakness: For God, (as before is said) doth command wicked men to be cut off: and doth except neither degree, sex, or condition, nor yet any man. For Kings are not more acceptable to him than beggars. Therefore, we may truely aver, that God being alike the Father of all, to whose providence nothing lies hid, and whose power nothing can resist, will not leave any wickedness unpunished. Moreover, another will stand up and ask some example out of Scripture of a King punished by his Subjects: which albeit I could not produce, yet it will not presently follow, that because we do not read such a thing therein to have been done, that it should be accounted for an high crime and malifice. I may rehearse among many Nations very many and sound Laws, whereof in holy write there is no example. For as the consent of all Nations doth approve, that what the Law doth command, is accounted just, and what it forbiddeth, is unjust, so since the memory of man it was never forbidden, that what should not be contained in Laws, should not at all be done. For that servitude was never received,

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nor will the Nature of things ſo fruitful of new Examples ſuffer the ſame to be received, that whatever is not by ſome Law commanded, or recorded by ſome famous Example, ſhould be accounted for a great Crime and Malifice. If therefore any man ſhall ask of me an Example out of the Sacred Scriptures, wherein the Puniſhment of wicked Kings is approved, I ſhall again ask him, where is the ſame reprehended? But if nothing done without ſome Example doth pleaſe: how many civil Statutes ſhall we have continued with us? how many Laws, for the greateſt part thereof is not taken out of any old Example, but eſtabliſhed againſt new Deceits, and that without Example. But we have already anſwered thoſe that require Examples more than was needful: Now if the Jewiſh Kings were not puniſhed by their Subjects, they make not much for our purpoſe in hand. For they were not at firſt created by the People, but were by God given them. And therefore very juſtly, he who was the Author of that Honour, was to puniſh their Miſdeeds. But we debate, that the People, from whom our Kings enjoy whatever Priviledge they claim, is more powerful than their Kings; and that the whole People have that ſame Priviledge over them, which they have over every one in particular of the whole People. All the Rights and Priviledges of forraign Nations, who live under lawful Kings, do make for us; all the Nations which are ſubject to Kings choſen by themſelves, do commonly agree herein, that whatever Priviledge the People hath given to any, the ſame they may require again very juſtly. All Common-wealths have ſtill retained this Priviledge. Therefore *Lentulus*, having conſpired with *Cataline* for overturning the Common wealth of *Rome*, was compelled to renounce his Prætorſhip, and the *Decemviri*, the Makers of the *Roman* Laws, were taken orders with, even whilſt they enjoyed the Supream Authority; Some Dukes of *Venice*, and *Chilpericus* King of *France*, laying aſide their Royal Honours, as private Men, ſpent their Days in Monaſteries. And not long ago, *Chriſtiernus* King of the *Danes*, twenty years almoſt after he was deprived of his Kingdom, did end his Life in Priſon. Now the Dictatorſhip (which was a Kind of Tyranny) was in the Peoples Power. And this Privilege hath been conſtantly obſerved, that publick Benefices granted amiſs, and the Liberty granted to ingrate Perſons ſet at liberty (whom Laws do very much favour) might be taken back again. Theſe things we have ſpoken of forraign Nations, leſt we alone ſeem to have uſurped any new Priviledge, againſt our Kings. But as to what doth properly belong to us, the matter might have been handled in few Words. *M.* What way? For this I am very deſirous to hear. *B.* I might enumerate twelve or

more Kings, who for great Crimes and flagitious deeds, have been either adjudged to perpetual Imprisonment, or escaped the just Punishment of their Wickedness, either by Exile or voluntary Death. But lest any blame me for relating old and obsolete Stories, if I should make mention of *Culen*, *Evan* and *Ferchard*, I shall produce some few within the Memory of our Fore-fathers. All the Estates in a publick Convention, judged *James* the Third to have been justly killed, for his great Cruelty and flagitious Wickedness towards his Subjects, and did caution that none of them who had aided, consented, or contributed Money, or had been active therein, to be called thereafter into question therefore. That they therefore did judge the Deed to be duly and orderly done, it being once down, doubtless they desired it might be set down for an Example in time coming, surely no less than *L. Quintius*, sitting in Judgment, did commend *Servilius Ahalus* for having killed before the Bench, *Sp. Mellus* turning his Back, and refusing to compear into Judgment, and that he was not guilty of Blood-shed, but thought him to be Nobilitate by the Slaughter of a *Tyrant*, and all Posterity did affirm the same. What Subject hath ever approved the Slaughter of one affecting Tyranny? What do you suppose would he have done with a *Tyrant* robbing the Goods of his Subjects, and shedding their Blood? What hath our Men done? do not they seem to have made a Law, who by a publick Decree, without any Punishment, have past by a flagitious Crime committed, if such like shall happen in time coming? for at most there is no difference, whether you judge concerning that which is done, or make a Law concerning what is to be done. For both ways a Judgment is past concerning the Kind of the Crime, and concerning the Punishment or Reward of the Actor. *M.* These things will perhaps have some weight amongst us. But I know not how other Nations abroad will take them. You see I must satisfie them. Not as in a judicial way I were to be called in question for the Crime, but openly amongst all concerning the Fame, not mine (for I am far from any Suspition thereof) but of my Country men. For I am afraid, lest forraign Nations will rather blame the Decrees, wherewith you suppose you are sufficiently protected, than the Crime it self full of Cruelty and Hatred. But you know, if I mistake not, what is usually spoken according to the Disposition and Opinion of every one on both hands, concerning the Examples you have proposed. I would therefore (because you seem to have expeded what is past, not so much from the Decrees of Men, as from the Springs of Nature) you would briefly expound, if you have ought to say for the Equity of that Law. *B.* Albeit that

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may seem unjust to stand at the Bar to plead amongst Forreigners for a Law approved from the very first Times of our *Scots* Government by Kings, by the constant Practice of so many Ages ago, necessary for the People, not unjust for Kings, but lawful, but now at last accused of Illegality; yet for your Sake I shall try it. And as if I were debating with those very Men who would trouble you, I first ask this. What do you think here worthy of Reprehension? Is it the Cause? why is it sought for? or is it the Law it self which you reprehended? for the Law was sought for repressing the unjust Lusts of Kings. Whoever doth condemn this, must likewise condemn all the Laws of all Nations, for all Laws were desired for the very same Cause. Do you reprehend the Law it self? do you think it lawful that Kings be exempted of, or not liable to the Laws? let us then see if that be also expedient. And for proving that it is not expedient for the People, there needs not many Words. For if in the former Discourse we have rightly compared a King to a Physitian, as it is not expedient for People that Impunity be permitted to a Physitian for killing whom he pleaseth, so it is not for the Good of all, that a promiscuous Licence be granted to Kingss for making Havock of all. We have no cause then to be offended with a People, whose chief Power it is in making Laws, if, as they desire a good King to be set over them, even so a Law to be set over a King none of the best. But if this Law be not for the Kings Use or Profit, let us see if the People should be dealt with to remit somewhat of their Priviledge, and of abrogating it not for the space of three days, but according to our usual way we indict a Parliament to meet within forty days. In the mean time, that we may reason together concerning the Law, tell me, doth he seem to respect the Good of a mad Man, who looseth his Bonds? *M.* Not at all. *B.* What do you think of him who giveth to a Man sick of a Fever, so as he is not far from Madness, a Drink of cold Water, though earnestly craving it, do you think he deserveth well of that sick Man? *M.* But I speak of Kings of a sound Mind. I deny that there is any need of Medicine for such as are in Health, nor of Laws for Kings of a sound Mind. But you would have all Kings to seem wicked, for you impose Laws upon all. *B.* I do not think that all Kings are Wicked. Nor do I think all the People to be wicked, and yet the Law in one Voice doth speak to the whole People. Now wicked Men are afraid at that Voice, good People do not think it belongs to them. Thus good Kings have no cause to be offended at this Law, and wicked Kings, if they were wise, would render Thanks to the Law-giver, who hath ordained what he understood would not be

profitable for them, nor to be lawful for them to do. Which indeed they will not do, if ſo be they ſhall once return again to their right Mind. Even as they who are reſtored to Health do render Thanks to their Phyſitian, whom before they had hated, becauſe he would not grant their Deſires whilſt they were ſick. But if Kings continue in their Madneſs, whoever doth moſt obey them, is to be judged their greateſt Enemy. Of this ſort are Flatterers, who by flattering their Vices, do cheriſh and increaſe their Diſeaſe, and at laſt, together almoſt with Kings, are utterly ruined. *M.* I cannot indeed deny, but that ſuch Princes have been, and may be reſtrained by Law-bonds. For there is no Monſter more violent and more peſtiferous than Man, when (as it is in the Poets Fables) he is once degenerated into a Beaſt. *B.* You would much more ſay ſo, if you conſider how many ways a Man becomes a Beaſt, and of how many ſeveral Monſters he is made. Which thing the old Poets did acutely obſerve and notably expreſs, when they ſay that *Prometheus*, in the framing of Man, did give him ſome Particle out of every living Creature. It would be an infinite Work for me to relate the Natures of all one by one. But certainly two moſt vile Monſters do evidently appear in Man, Wrath and Luſt. But what elſe do Laws act or deſire, but that theſe Monſters be obedient to right Reaſon? and whilſt they do not obey Reaſon, may not Laws, by the Bonds of their Sanctions reſtrain them? whoever then doth looſe a King, or any other from theſe Bonds, doth not looſe one Man, but throws in againſt Reaſon two Monſters exceeding cruel, and armeth them for breaking aſunder the Bars of Laws: ſo that *Ariſtotle* ſeemeth to have rightly and truly ſaid, that he who obeyeth the Law, doth obey both God and the Law; but he that obeyeth the King, doth obey both a Man and a Beaſt. *M.* Albeit theſe things ſeem to be ſaid appoſitely enough, yet I think we are in a Miſtake two ways. Firſt, becauſe the laſt things we have ſpoken, ſeem not to agree well enough with the firſt. Next, becauſe, as we may well know we ſeem not to have yet come to the main Point of our Debate. For a little before we were at agreement that the Voice of the King and Law ought to be the ſame, here again we make him Subject to the Laws. Now though we grant this to be very true, what have we gained by this Concluſion? for who ſhall call to an account a King become a Tyrant? for I fear a Priviledge without Strength will not be powerful enough to reſtrain a King forgetful of his Duty, and unwilling to be drawn unto Judgment, to anſwer for Male-adminiſtration. *B.* I fear ye have not well pondered what we have before debated, concerning the Royal Power. For if ye had well conſi-

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dered it, you had eaſily underſtood what you now have ſaid, that betwixt them there is no Contradiction. But that you may the more eaſily take it up, firſt anſwer we, when a Magiſtrate or Clerk doth utter the Words of a Proclamation before an *Herauld.* Is not the Voice of both one and the ſame? I ſay of an Herauld, and of a Clerk. *M.* It is the ſame indeed. *B.* Which of the two ſeems greateſt? *M.* He who firſt doth utter the Words. What is the King, who is the Author of the Edict? *M.* Greater than both. *B.* Then according to this Similitude let us ſet down the King, the Law, and the People. The Voice is the ſame both of King and Law. Which of the two hath the Authority from the other, the King from the Law, or the Law from the King? *M.* The King from the Law. *B.* From whence collect you that? *M.* Becauſe the King was not ſought for to reſtrain the Law, but the Law to reſtrain the King. And from the Law he hath that, whereby he is a King, for without the Law he would be a Tyrant. *B.* The Law then is more powerful than the King, and is as a Governeſs and Moderatrix both of his Luſt and Actions. *M.* That is already granted. *B.* What, Is not the Voice of the People and the Law the ſame? *M.* The very ſame. *B.* Which of the two is moſt powerful, the People or the Law? *M.* I think, the whole People. *B.* Why do you think ſo? *M.* Becauſe the People is as it were the Parent of the Law, certainly the Author thereof, they being able to make or abrogate it as they pleaſe. *B.* Seeing then the Law is more powerful than the King, and the People more powerful than the Law, we muſt ſee before which we may call the King to anſwer in Judgment. Let us alſo diſcuſs this. Are not the things which for ſome others Sake are inſtituted, of leſs account than thoſe for whoſe ſake they are required or ſought? *M.* I would have that more clearly explained. *B.* Follow me thus, is not a Bridle made for the Horſe Sake? *M.* It is ſo. *B.* Are not Saddles, Girdings and Spurs made for Horſes? *M.* They are. *B.* Now if there were no Horſe, there ſhould be no uſe of ſuch things. *M.* None at all. *B.* A Horſe is then better than all theſe. *M.* Why not? *B.* Why a Horſe? for what uſe is he deſired? *M.* For very many Uſes, and firſt of all, for obtaining Victory in War. *B.* We therefore do eſteem the Victory to be of more worth than Horſes, Arms, and other things, which are prepared for the Uſe of War. *M.* Of more worth indeed it is. *B.* What did men eſpecially regard in creating a King? *M.* The Peoples Good, as I ſuppoſe. *B.* But would there be no need of Kings, if there were no Societies of Men? *M.* None at all. *B.* The People then is better than the King. *M.* It muſt needs be ſo. *B.* If the People be better, they are alſo

greater.

greater. *M.* But when ſhall we hope for that Happineſs, that the whole People agree unto that which is Right. *B.* That indeed is ſcarce to be hoped for. And to expect it, is certainly needleſs: otherwiſe a Law could neither be made, nor a Magiſtrate Created. For neither is almoſt any Law alike to all, nor is there almoſt any Man in that Popular Favour, ſo as to have no Man either an Enemy to him, or Envious or Slanderer of him; this now is deſired, that the Law be uſeful for the greateſt part, and that the greateſt part have a good opinion of him that is to be choſen. What if the greateſt part of the People may enjoyn a Law to be made, and Create a Magiſtrate, what doth hinder, but that they alſo may judge him, and appoint Judges over him? Or if the *Tribunes* of the People of *Rome*, and the *Lacedemonian Ephori* were ſought to modifie the Power of Magiſtracy, ſhould it ſeem unjuſt to any Man, if a Free-People, either upon the like or different account, did foreſee their own good in ſuppreſſing the bitterneſs of Tyranny? *M.* Now I ſeem almoſt to perceive what a People can do: But it is a matter of difficulty to judge what they will do, or appoint to be done. For the greateſt part almoſt doth require Old and uſual Cuſtomes, and hateth Novelty, which the rather is to be admired, ſeeing there is ſo great an inconſtancy in Meat, Apparel, Buildings, and in all Houſhold Furniture. *B.* Do not think that theſe things are ſpoken by me, that I would have any new thing in this kind to be done, but that I might ſhew you it hath been of Old, that a King ſhould anſwer in judgment before Judges, which you did believe to be almoſt Incredible, or at leaſt a Novelty. For to paſs over, how often it hath been done by our Anceſtors, as partly before we have ſaid, and you may alſo eaſily Collect from Hiſtory; did you never hear of thoſe who contended for the Kingdom to have appealed to Arbiters? *M.* I have indeed heard it to have been ſometimes done amongſt the *Perſians*. *B.* And our Writers affirm that the ſame was done by *Grimas* and *Milcolumbus*. But leaſt you alledg that that kind of Arbiters were wont to be aſſumed by the Contenders own conſent, let us come to the ordinary Judges. *M.* Here I am afraid you may as far prevail, as if a Man ſhould ſpread Nets in the Sea to catch *Whales*. *B.* Why ſo, I pray you? *M.* Becauſe all apprehending, reſtraint and puniſhment is carried on by the more powerful againſt the weaker. But before what Judges will you command a King to compear? Before them over whom he hath the Supream Power to judge? Whom he can compeſce by this one word, *I Forbid*? *B.* What if ſome greater Power be found which hath that right priviledge of juriſdiction over Kings, which Kings have over others? *M.* I deſire to hear that. *B.* We told you, if you remember,

member, that this Power is in the People. *M.* In the whole People indeed, or in the greateſt part thereof. I alſo yield thus further, that it is in thoſe to whom the People, or the greateſt part of them ſhall tranſmit that Power. *B.* You do well, in holding in my pains. *M.* But you know that the greateſt part of the People is corrupted either through fear, or reward, or through ſome hope of a Bribe and Impunity, ſo as they prefer their own benefit and pleaſures or luſts to the publick utility, and alſo ſafety. Now there are very few who are not hereby moved: according to that of the Poet. Good People are indeed Rare, ſcarce, ſo many in number, as there be Gates in *Thebes*, or Iſſues of the *River Nilus*. Now all the reſt being a naughty Rabble fatned with Blood and rapine enjoy their Venal liberty, and Envy the liberty of others. Now that I may paſs from thoſe with whom the name of wicked Kings alſo is ſacred. I alſo Omit thoſe, who, albeit they are not ignorant what is lawful and juſt or right, yet prefer a quiet ſloathfulneſs to honeſt hazards, and heſitating in their minds do frame their conſultation on the expectation of the Event: or follow the good Fortune of either party, but not the cauſe. How great this multitude will be, you ſee. *B.* Great indeed: but yet not very great. For the wrong of Tyrants may reach many, but their good Deeds very few. For the Avarice of the vulgar is inſatiable, as a fire is the more vehemently kindled by adding Fuel thereto: But what is by force taken away from many, doth rather increaſe the Hunger of ſome few, then Satiate their Luſt. And further the fidelity of ſuch Men for the moſt part is unſtable: As ſaith the Poet. Fidelity doth ſtand and fall with Fortune. But if they would alſo continue firm in their judgment, they ſhould not be accounted in the number of good Subjects, for they are the Violators, or rather Betrayers of humane Society; which Vice if not ſufferable in a King, is far leſs tolerable in a private Perſon. Who then are to be accounted the right Subjects? They who give Obedience to the Laws, maintain and defend humane Society, who rather undergo all pains and Labours, and all Hazards for common Safety, then ſpend their time Sluggiſhly in Idleneſs void of all Honeſty; who ſet before their Eyes, not their preſent enjoyments, but the remembrance of Eternity. But if there be any whom fear and ſelf intereſt recal from Hazards, yet the ſplendor of ſome notable Atchievment, and the Beauty of Vertue will raiſe up dejected minds; and thoſe who dare not be Authors or Leaders, will not decline to become Aſſociates. If therefore Subjects be reckoned, not by number, but by dignity and worth, not only the better part, but alſo the greater part will ſtand for their liberty, honeſty and ſafety. But if the whole com-

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mon People diſſent, this ſays nothing to our preſent debate: For we demand not what is to be done, but what may lawfully be done. But now let us come to the ordinary judicial Sentences. *M.* That I juſt now look for. *B.* If any private Man contend that his inheritance, or ſome part of his Land is unjuſtly detained by the King, what do you think ſhould this private Man do? Shall he paſs from his Land, becauſe he cannot ſet a Judge over the King? *M.* Not at all, but he may command not the King, but his proxy to compear in judgment. *B.* Now ſee what ſtrength that refuge hath whereof you make uſe. For it is all one to me, whether the King compear, or his Proxy, or Advocate, for both ways, the Litiſ-conteſtation will redound to the Kings loſs: The damage or gain will redound to him not to his Advocate by the Event of the Sentence. In the end he is found Guilty, that is, he whoſe cauſe is agitated. Now I would have you conſider not only how abſurd it is, but alſo unjuſt to paſs Sentence againſt a King for a petty inheritance for Lights in a Houſe, or for eaſe droppings thereof, and no Sentence to be paſt for Paricide, Witch-craft or Treaſon. To make uſe of the ſeverity of the Law in leſſer matters, and the greateſt Licenſe and Impunity to be permitted in the greateſt Crimes. So that that Old Proverb ſeems plainly true, Laws are very like Spiders Webs, which hold flies faſt, but let bigger Beaſts paſt through. Nor is that complaint and indignation of ſome juſt, who ſay that it is neither Honeſt nor Equitable, that judgment ſhould paſs againſt a King, by a Man of an inferiour Rank, ſeeing they ſee it received and admitted in debate about Mony or Land; and the greateſt Peers next to the King for the moſt part compear before the Judges, who are inferior to them in riches, nobility, and valour. And not much above the Vulgar Rank: and far more below the guilty, than the greateſt Peers are below Kings. Nor yet for all this do theſe Noble-Men or Peers think it any Derogation to their Dignity. Now if we ſhall once admit this, that no Man can be liſted before a Judge, unleſs the Judge be every way Superiour to the Perſon Arraigned, the Inferiour Rank muſt attend and wait on until the King either pleaſe, or be at leiſure, to cognoſce concerning the guilty Noble-Man, but what if their complaint be not only unjuſt, but alſo falſe? For no Man coming before a Judge doth come before an Inferior Perſon, eſpecially ſeeing ſo great an Honour is by God himſelf conferred upon the Order of Judges, that he calleth them not only Kings but alſo Gods, and as much as can be, doth Communicate to them his own Dignity. Therefore thoſe *Roman Popes*, who did graciouſly Indulge Kings to Kiſs their Feet, who did ſend for Honours ſake to ſuch as came to meet them, their *Mules* who did Tread upon

upon the Necks of *Emperours*, being called to anſwer in judgment, did obey, and being compelled by Judges, renounced their *Popedom*. *John* the Twenty Second being from flight brought back, was thruſt into Priſon, and ſcarce at laſt relieved by Mony, and ſubmitted to him that was put into his place, and therefore he did approve the Sentence of the Judges. What did the *Synode* of *Baſil*? Did it not appoint and ordain by the common conſent of all the Members thereof, that the *Pope* is ſubject to the Council of Prieſts. Now theſe Fathers were perſwaded upon what account they did ſo, which you may find out of the Acts of theſe Councils. Kings then who confeſs the Majeſty of *Popes* to be ſo far above them, as that it doth over-ſhadow them all with the Top of its Celſitude, I know not how they think therein their Dignity to be diminiſhed, wherein the *Pope* did not think he was diſparaged to deſcend from ſo High a Throne, namely, to ſtand to the Judgment and Sentence of the Cardinals: Hereby you may ſee how falſe their complaint is, who diſdain to be Arraigned at the Bar of an Inferior Judge, for it is not *Titius Sempronius*, or *Stichus* that doth in a judiciary way Condemn and Abſoil, but the Law, to which Kings ſhould yield Obedience. The moſt famous Emperours *Theodoſius* and *Valentinianus* accounted honourable. I ſhall here ſet down their own words, becauſe they deſerve the Memory of all Ages. Is is (ſay they) a word well beſeeming the Majeſty of a King to confeſs he is a Prince tied to the Laws. And we declare that it is more to ſubmit a principality to the Laws than to enjoy an Empire. And what we now declare by this our Edict, we will not ſuffer to be infringed. Theſe things the very beſt Princes judged right and by Law Eſtabliſhed, and ſome of the worſt ſee the ſame. For *Nero* being Apparelled in a dreſs of Harpers, is ſaid to have not only obſerved their Carriage and Motions, but alſo when it came to be judged who had done beſt, that he ſtood Solicitous betwixt Hope and Fear for the Victory. For albeit he knew he would be declared Victor, yet he thought the Victory would be the more Honeſt, if he ſhould obtain it, not by the Flattery of the Judges, but by due debate: And he thought the Obſervation of the Law did Contribute not for the Diminuition of his Authority, but for the ſplendor of the Victory. *M.* Your diſcourſe, I perceive, is not ſo Inſolent, as at firſt I took it, when you ſaid, you would have Kings Obedient to the Laws: For it is not ſo much founded upon the Authority of *Philoſophers*, as of *Kings*, *Emperours* and *Councils* of the Church. *M.* But I do not well underſtand that you ſay, it is not Man but the Law that Judgeth. *B.* Call to mind what was ſaid a little before: Did we not ſay, that the Voice of the King and of the Law is the ſame? *M.* We

did ſo. *B.* What the Voice of the Clerk, and *Herauld* is, when the Law is publiſhed? *M.* The very ſame. *B.* But which of the two hath the Authority from the other, whether the Judge from the Law, or the Law from the Judge? *M.* The Judge from the Law. *B.* The ſtrength of the Sentence is then from the Law, and the pronounciation of the words of the Law alone is the Judges. *M.* It ſeems ſo. *B.* Yea, there is nothing more certain, for the Sentences of Judges pronounced according to the Law are ratified, elſe they are reſcinded. *M.* There is nothing more true than that. *B.* You ſee then that the Judges Authority is from the Law, and not the Laws Authority from the Judge. *M.* I ſee it is ſo. *B.* The low and mean condition of him that Proclaimeth the Law doth not diminiſh the Dignity thereof, but the Dignity of the Laws is ſtill the ſame, whether the King, a Judge, or an *Herauld* Proclaim it. *M.* It is ſo indeed. *B.* The Law then being once Eſtabliſhed, is firſt the Voice of the King, and then of others. *M.* It is ſo. *B.* Whilſt then the King is condemned by a Judge, he ſeems to be condemned by the Law. *M.* That is very clear. *B.* If by the Law, then he is condemned by his own Voice, as ſeems, no leſs than, if it were written with his own hand. *B.* Why then do we ſo much weary our ſelves concerning a Judge, ſeeing we have the Kings own Confeſſion, that is to ſay, the Law? Let us alſo conſider this, which is but preſently come into my mind. When a King in what Cauſe ſoever doth ſit in judgment as a Judge, ſhould he not lay a ſide the perſon of all others, and to have no reſpect to Brother, Kiſman, Friend or Foe, but retain only the perſon of a Judge. *M.* He ought ſo to do. *B.* Ought he not to remember that Perſon only, whoſe proper Act it is he is about. *M.* I would have you tell me that more clearly. *B.* Take heed then: when any Man doth ſecretly take away another Mans Goods, what do we ſay he hath done? *M.* I think, he hath ſtollen them. *B.* How do you call him for this deed? *M.* A Thief. *B.* How do you ſay he hath done, who makes uſe of his Neighbours Wife, as his own? *M.* We ſay he hath committed Adultery. *B.* How do we call him? *M.* An Adulterer. *B.* How do we call him that judgeth? *M.* A Judge. *B.* To others alſo after this manner from the Actions they are about, names may be rightly given. *M.* They may. *B.* When a King then is to paſs a Sentence, he is to lay aſide all other Perſons. *M.* Indeed he ſhould, eſpecially thoſe that may prejudge either of the Parties in Judging. *B.* How do you call him againſt whom the Sentence is paſt, from that Act of judgment? *M.* We may call him Guilty. *B.* And is it not equitable that a Judge lay aſide ſuch perſons as may prejudge the Sentence? *M.* Certainly he ſhould, if ſo be, ſuch perſons be more regarded than the

cauſe:

cauſe: Yet ſuch perſons pertain not to a Judge. Seeing God will have no reſpect to be had to the poor in judgment. *B.* If then any Man, who is a Painter and a Grammarian debate before a Judge concerning the Art of Painting againſt a Painter, he is not a Grammarian, for the Science of Grammar ſhould not herein avail him. *M.* Nothing at all. *B.* Nor the Art of Painting avail the other, if the debate be concerning Grammar. *M.* Not a whit more. *B.* A Judge then in judgment muſt acknowledge but one name, to wit, of the Crime, or guilt, whereof the Adverſary or Plantiff doth accuſe his Party or Defendant to be guilty. *M.* No more. *B.* What if a King be guilty of Parricide, hath he the name of a King, and whatever doth belong to a Judge? *M.* Nothing at all, but only of a Parricide, for he cometh not into Controverſie concerning his Kingdom, but concerning his Parricide. *B.* What if two Parricides be called to anſwer in judgment, the one a King, and the other a Poor Fellow, ſhall not there be alike way of procedure by the Judge of both? *M.* The very ſame with both, ſo that I think that of *Lucan* is no leſs true than Elegantly ſpoken. *viz.* *Cæſar* was both my Leader and Fellow in paſſing over the *Rhine*. Whom a Malifice doth make guilty, it maketh alike. *B.* True indeed. The proceſs then is not here carried on againſt a King and a Poor Man, but againſt their Parricides: For then the proceſs ſhould be led on concerning the King, if it ſhould be asked which of the two ought to be King: Or if it come into queſtion, whether *Hiero* be King or a *Tyrant*, or if any other thing come into queſtion which doth properly belong to the Kings Function. Even as if the Sentence be concerning a Painter, when it is demanded, hath he skill in the Art of Painting. *M.* What if a King will not willingly compear, nor by force can be compelled to compear. *B.* Then the caſe is common with him as with all other Flagitious perſons. For no Thief or Warlike will willingly compear before a Judge to be judged. But I ſuppoſe, you know, what the Law doth permit, namely to kill any way a Thief Stealing by Night, and alſo to kill him if he defend himſelf when Stealing by day. But if he cannot be drawn to compear to anſwer but by Force, you remember what is uſually done. For we perſue by Force and Arms ſuch Robbers as are more powerful than that by Law they can be reached. Nor is there almoſt any other cauſe of all the Wars betwixt Nations, People and Kings than thoſe injuries, which, whilſt they cannot be determined by Juſtice, are by Arms decided. *M.* Againſt Enemies indeed for theſe Cauſes Wars uſe to be carried on, but the caſe is far otherwiſe with Kings, to whom by a moſt ſacred Oath interpoſed we are bound to give Obedience. *B.* We are indeed bound: But they do firſt promiſe that they ſhall Rule in Equity and Juſtice. *M.* It is ſo. *B.* There is then a mu-

tual paction betwixt the King and his Subjects. *M.* It seems so. *B.* doth not he who first recedes from what is covenanted, and doth contrary to what he hath covenanted to do, break the Contract and Covenant? *M.* He doth *B.* The Bond then being loosed, which did hold fast the King with the People, whatever priviledg or right did belong to him, by that agreement and covenant who looseth the same, I suppose is lost. *M.* It is lost. *B.* He then with whom the Covenant was made becometh as free as ever it was before the stipulation. *M.* He doth clearly enjoy the same priviledge, and the same liberty. *B.* Now if a King do those things which are directly for the dissolution of Society, for the continuance whereof he was created, how do we call him? *M.* A *Tyrant*, I suppose. *B.* now a *Tyrant* hath not only no just authority over a People, but is also their Enemy, *M.* He is indeed an Enemy. *B.* Is there not a just and lawful War with an Enemy for grievous and intolerable injuries? *M.* It is forsooth a just War. *B.* what War is that which is carried on with him who is the Enemy of all Mankind, that is, a *Tyrant*? *M.* A most just War. *B.* Now, a lawful War being once under taken with an Enemy, and for a just cause, it is lawful not only for the whole People to kill that Enemy, but for every one of them. *M.* I confess that. *B.* May not every one out of the whole multitude of Mankind assault with all the Calamities of War, a *Tyrant* who is a publick Enemy, with whom all good Men have a perpetual warfare. *M.* I perceive all Nations almost to have been of that Opinion. For *Thebe* is usually commended for killing her Husband, *Timoleon* for killing his Brother, and *Cassius* for killing his Son: and *Fulvius* for killing his own Son going to *Catiline*, and *Brutus* for killing his own Sons and Kinsmen; having understood they had conspired to introduce Tyranny again: and publick rewards were appointed to be given, and honours appointed by several Cities of *Greece* to those that should kill *Tyrants*. So that (as is before said) they thought there was no Bond of humanity to be kept with Tyrants. But why do I collect the assent of some single Persons, since I can produce the testimony almost of the whole World. For who doth not sharply rebuke *Domitius Corbulo* for neglecting the safety of Mankind, who did not thrust *Nero* out of his Empire, when he might very easily have done it? And not only was he by the *Romans* reprehended, but by *Tyridates* the *Persian* King, being not afraid, lest at all it should afterward befal an Example unto himself. But the Minds of most wicked Men enraged with cruelty, are not so void of this publick hatred against Tyrants, but that sometimes it breaketh out in them against their will, and forceth them to stand amazed with terrour at the sight of such a just and lawful deed. When the Ministers of *Cajus Caligula* a most cruel Tyrant were

were with the like cruelty tumultuating, for the ſlaughter of their Lord and Maſter, and required thoſe that had killed him to be puniſhed, now and then crying aloud, who had killed the Emperour: *Valerius Aſiaticus* one of the Senators ſtanding in an eminent high place from whence he might be heard, cryed out aloud: I wiſh I had killed him. At which word theſe tumultuary Perſons void of all humanity ſtood as it were aſtoniſhed, and ſo forbore any more to cry out tumultuouſly. For there is ſo great force in an honeſt deed, that the very lighteſt ſhew thereof, being preſented to the Minds of Men, the moſt violent aſſaults are allayed, and fierce fury doth languiſh, and madneſs nill it will it doth acknowledge the ſoveraignty of reaſon. Neither are they of another judgment, who with their loud crys mix Heaven and Earth together. Now this we do eaſily underſtand either from hence, that they do reprehend what now is done, but do commend and approve the ſame ſeemingly more atrocious, when they are recorded in an old Hiſtory: and thereby do evidently demonſtrate that they are more obſequious to their own particular affections, than moved by any publick dammage. But why do we ſeek a more certain witneſs what Tyrants do deſerve, than their own Conſcience? thence is that perpetual fear from all, and chiefly from good Men; and they do conſtantly ſee hanging above their own Necks, the Sword which they hold ſtill drawn againſt others, and by their own hatred againſt others the meaſure other Mens Minds againſt them. But contrariwiſe good Men, by fearing no Man do often procure their own hazard, whilſt they weigh the good will of others towards them, not from the vicious nature of Men, but from their own deſert towards others. *B.* You do then judge that to be true, that Tyrants are to be reckoned in the number of the moſt cruel Brute Beaſts; and that Tyranical violence is more unatural than Poverty, Sickneſs, Death, and other miſeries which may befall Men naturally. *M.* Indeed when I do ponder the weight of your reaſons, I cannot deny, but theſe things are true. But whilſt hazards and inconveniences do occur, which follow on the back of this opinion, my mind as it were tyed up with a Bridle, doth inſtantly I know not how, fail me, and bendeth from that too Stoical and ſevere right way towards utility, and almoſt falleth away. For if it ſhall be lawful for any Man to kill a Tyrant, ſee how great a gap you do open for wicked Men to commit any miſchief, and how great hazard you create to good Men: to wicked Men you permit licentiouſneſs, and lets out upon all the perturbation of all things. For he that ſhall kill a good King, or at leaſt none of the worſt, may he not pretend by his wicked

ed deed ſome ſhew of honeſt and lawful duty? or if any good Subject ſhall in vain attempt to kill a Prince worthy of all puniſhment, or accompliſh what he intended to do, how great a confuſion of all things do you ſuppoſe muſt needs follow thereupon? Whilſt the wicked do tumultuate, raging that their head and leader is taken away from them, neither will all good men approve the deed, nor will all thoſe who do approve the deed, defend the doer and Author of their liberty againſt a wicked crew. And many under an honeſt pretext of Peace will vail their own lazineſs, or rather caluminate the vertue of others, than confeſs their own ſlothfulneſs. ſurely this remembrance of ſelf intereſt, and excuſe of leaving the Publick cauſe and the fear of dangers, if it doth not break the Courage, yet it weakneth the ſame, and compelleth it to prefer tranquillity, albeit not very ſure, to an uncertain expectation of liberty. *B.* If you will remember what is before ſpoken, this your fear will be eaſily diſcuſſed. For we told you that there be ſome Tyrannies allowed by the free ſuffrages of a People, which we do honour with Royal Titles, becauſe of the moderate adminiſtration. No man, with my will, ſhall put violent hands on any ſuch, nor yet on any of thoſe, who even by force or fraud have acquitted ſoveraignty, provided they uſe a moderate way in their Government. Such amongſt the *Romans* were *Veſpaſianus*, *Titus*, *Partinax*; *Alexander* amongſt the *Grecians*, and *Hiero* in *Syracuſa*. Who albeit they obtained the Government by Force and Arms, yet by their Juſtice and Equity deſerved to be reckoned amongſt juſt Kings. Beſides, I do only ſhew what may be lawfully done, or ought to be done in this caſe, but do not exhort to attempt any ſuch thing. For in the firſt a due conſideration of the caſe, and a clear Explanation thereof is ſufficient: but in the laſt there is need of good Counſel in undertaking, of Prudence in aſſaulting, and courage in acting. Now ſeeing theſe things are either promotedor overturned by the circumſtances of Time, Perſon, Place, and other Inſtruments in carrying on the buſineſs: if any ſhall raſhly attempt this, the blame of his fault can be no more imputed to me, than his fault to a Phyſitian, who hath duely deſcribed the Remedies of Diſeaſes, but were given by another to the Patient unſeaſonably. *M.* One thing ſeems yet to be wanting to put an end to this diſpute: which if you ſhall add, I ſhall think I have received a very ſingular kindneſs of you: the matter is this, let me underſtand, if there be any Church Cenſures againſt Tyrants? *B.* You may take it when you pleaſe out of the firſt Epiſtle of *Paul* to the *Corinthians*, where the Apoſtle doth forbid to have any Fellowſhip either at Meat or diſcourſe with openly lewd and flagitious men. If this were obſerved amongſt

Chriſtians

Christians, such lewd Men, unless they did repent, might perish by hunger, cold, and nakedness. *M.* A grievous sentence indeed that is. But I do not know if a People, that allow so much liberty every way to their *Rulers*, will believe that Kings should be punished after this manner. *B.* Surely the Ancient Ecclesiastick Writers without Exceptions did thus understand that sentence of *Paul*. For *Ambrose* did hold out of the Assembly of the Christians *Theodosius the Emperour*, *Theodosius* obeyed the said Bishop: and for what I know, Antiquity doth more highly extol the deed of no other so much, nor is the modesty of any other Emperour more commended. But to our purpose, what difference is there betwixt the Exclusion out of Christian fellowship, and the interdiction from Fire and Water? this last is a most grievous sentence imposed by *Rulers* against such as refuse to obey their Commands: and the former is a Sentence of Church-men. Now the punishment of the contempt of both Authorities is death: but the Secular Judge denounceth the death of the Body, the Ecclesiastick Judge denounceth the destruction of the whole Man. Therefore the Church will not account him worthy of death, whom it doth expel out of the fellowship of Christians, while he is alive, and banisheth him into the fellowship of Devils, when dead. Thus according to the equity of the cause I think I have spoken abundantly, if therewith any Forraigners be displeased, I desire they would consider how unjustly they deal with us. For whilst there be many Nations both great and wealthy in *Europe*, having all their own peculiar Laws, they deal arrogantly who would prescribe to all that Model and Form of Government which they themselves enjoy. The *Helvetians* Government is a Common-wealth, *Germany* useth the name or Title of Empire, as a lawful Government. Some Cities in *Germany*, as I am (informed) are under the Rule of Princes, The *Venetians* have a Seniority tempered of these. *Muscovia* hath a very Tyranny instead of Government. We have indeed but a little Kingdom, but we have enjoy'd it these two thousand Years free of the Empire of forraign Nations. We did create at first lawful Kings, we did impose upon our selves and them equal and just Laws, the long continuance of time, doth shew they were useful. For more by the observation thereof than by force of Arms, hath this Kingdom stood intire hitherto: Now what iniquity is this, that we should desire either to abrogate, or neglect the Laws, the good whereof we have found by experience for so many Ages? Or what impudence is that in others, that whereas they cannot scarce defend their own Government, endeavour to weaken the state and good order of another Kingdom? What? are not our Laws and Statues useful not only to our selves, but

alſo to our Neighbours? For what can be more uſeful for keeping Peace with our neareſt Neighbours, than the moderation of Kings? for from immoderate Luſt unjuſt Wars are for the moſt part raſhly undertaken, wickedly proſecuted and carried on, and ſhamefully with much diſgrace left off. And further her, what more hurtful can there be to any Common-wealth, than bad Laws amongſt their neareſt Neighbours, whereof the contagion doth uſually ſpread far and wide? And why do they thus trouble us only, ſeeing ſo many Nations round about have their ſeveral Laws and Statutes of their own, and no Nation hath altogether the ſame Laws and Statutes as others about them have: and why are they now offended at us, ſeeing we make no new Law, but continue to obſerve what we had by an ancient Priviledge? and ſeeing we are not the only Perſons, nor the firſt Perſons, nor yet is it at this time that we make uſe of our Laws. But our Laws are diſpleaſing to ſome. Perhaps their own Laws diſpleaſe them alſo. We do not curiouſly enquire what the Laws of other Nations are. Let them leave us our own well known by the Experience of ſo many Years. Do we trouble their Councils? or in what buſineſs do we moleſt them? But you are ſeditious, ſay they. I could freely give them an Anſwer? what is that to them? we are tumultuous at our own peril, and at our own damage. I might enumerate a great many ſeditions that are not hurtful either to Common wealths or Kingdoms. But I ſhall not make uſe of that defence. I deny any Nation to be leſs ſeditious than we. I deny that any Nation hath ever been more moderate in Seditions than we. Many contentions have fallen out for Laws, and right of Goverment, and adminiſtration of the Kingdom yet the main buſineſs hath been ſtill kept ſafe. Our contentions never were, as amongſt many others, with the deſtruction of the People, nor with the hatred of our Princes, but only out of love to our own Country, and deſire to maintain our Laws How often in our time have great Armies ſtood in oppoſition to one another? how oft have they retired and withdrawn from one another, not only without wound, but without any harm, yea without ſo much as a reproach? How often hath the publick utility ſetled the private grudges? how often hath the rumour of the Enemies approach extinguiſhed our inteſtine hatred and animoſity? In all our Seditions we have not been more modeſt than fortunate; ſeeing for the moſt part the Party moſt juſt hath been always moſt fortunate: and even as we have moderately vented our hatred, ſo have we to our profit and advantage condeſcended to an agreement. Theſe things at preſent do occur, which might ſeem to compeſce the Speeches of Malevolents, refute ſuch as are more pertinatious, and may ſatisfie ſuch as are of a more temperate diſpoſition. But by what right other Nations are govern'd, I thought it not much to our purpoſe. I have briefly rehearſed our own way and cuſtom, but yet more amply than I intended, for than the matter did require: becauſe I undertook this pain for you only. And if it be approved by you, I have enough. *M.* As for me, you have abundantly ſatisfied me: but if I can ſatiſie others alſo, I ſhall think I have received much good by your diſcourſe, and my ſelf eaſed of very much trouble.

FINIS.